

Mr Vonk, you have pleaded guilty to one count of aggravated burglary and two counts of assault.

You committed these crimes on 22 May 2021. At that time, you were employed as a disability support worker. You had been in that employment for approximately 13 years. However, when you committed these crimes, your employment was under suspension because of a complaint against you concerning an unrelated matter.

At about 9:30pm, you entered the residential care home which was your usual place of employment, although, because of the suspension, you were not rostered on nor even permitted to be there. You had with you a knife, which had a blade approximately 20 cm in length. Your intention was to cause property damage and you had taken the knife with you to use as a tool for that purpose. The residents of the home were all in bed asleep, and the only disability support worker on duty was a female colleague known to you. She saw you enter the house through the front door. The door had been locked, but you had opened it with a spare key, which you had retrieved from its usual hiding place in the backyard. The complainant asked you what you were doing at the home and reminded you that you were not able to be there. You told her that you just wanted to talk, and then approached her and tried to snatch the mobile phone which she was holding, from her. You then placed your hands around her neck and applied pressure, making it difficult for her to breathe. She tried to push you off, but was initially unable to do so because of your greater size and strength. However, after some time, she was able to escape and fled outside, where she screamed for help.

You followed her out of the house, took hold of her clothing and pushed her into a bush. You then put your hands around her throat again and squeezed hard to the point where she could not breathe. You then produced the knife from your back pocket and held it at her throat. The complainant pushed the knife away, grabbing the blade in the process, which caused a small cut to her finger. You put the knife down and then put your gloved fingers into her mouth, pushing them past her back teeth, again restricting her breathing. The complainant was eventually able to force you to remove your fingers by biting down on them. You then placed your hand over her nose and mouth, which again made it difficult for her to breathe. She was on the ground when you did this. Eventually she was able to get away from you, despite you attempting to continue to hold her. She was able to run to a neighbouring house where she sought help and called the police. Throughout this attack, she screamed for help on a number of occasions, but you continued to tell her to "shut the fuck up".

It seems that you left the premises shortly after the complainant's final escape. You were gone by the time police arrived. You were intercepted driving your vehicle a short time later and arrested. You have been held in custody since then.

The complainant suffered some relatively minor physical injuries as a result of your assaults. These include the small cut to her hand caused by the knife, cuts on the inside of her lower lip and under her tongue, grazes to her right elbow and back, and bruising to her lower legs. She also had soreness around her throat, mouth and feet. These physical injuries are serious enough, but the greater impact by far is the emotional and psychological consequences, which have been described by the complainant in her impact statement, which she very courageously read to me in Court. In the statement, she describes the terror she experienced during your attack,

and the ongoing nature of the trauma and consequential impact on her life. Understandably, she felt that your purpose was to rape or murder her. Having regard to what you did, and the unprovoked and persistent nature of your attack on her, I completely understand her terror and feeling that her life was under direct threat. The ongoing impact on her has been significant. She has been diagnosed with post-traumatic stress disorder and continues to receive psychological and medical treatment. A psychiatrist has expressed the view that she will need intense treatment with a psychiatrist with expertise in post-traumatic stress disorder. She has been unable to return to work, and her doctor thinks that she will be unable to undertake any form of work for some months. It is unlikely that she will ever go back to the same job, and this is very distressing for her because she loved the work that she was doing. The only available conclusion is that your attack on her has caused significant long-term psychological injury. This outcome, and consequent impact of the nature and extent described by the complainant is entirely consistent with the brutal and terrifying violence to which you subjected her. It is also understandable that the psychological impact has been exacerbated by the fact that this attack was completely unexpected, and was perpetrated by a colleague at night when she was alone at her workplace, and therefore vulnerable.

From an objective point of view, these are very serious crimes with a number of aggravating factors. You went to the house in possession of a knife and knowing that the carer on duty would be there alone, and that the residents would be in bed. You attacked the complainant at her workplace and in circumstances in which she was completely vulnerable. Your assault on her generally was brutal and completely unprovoked and unexpected. You held the knife to her throat and more than once placed pressure around her throat in an act of strangulation, significantly interfering with her capacity to breathe. You also restricted her breathing in other ways. These actions had the capacity to, and actually did cause enormous terror. They were also were extremely dangerous. In particular, the potential for serious, even lethal consequences, as a result of compression of the neck is well documented and accepted by the courts. The attack was prolonged and persistent. When the complainant was able to escape from your initial attack, you chased her down and continued to attack her outside the premises.

You are 56 years of age. With one exception, your criminal history is entirely comprised of traffic offences. The exception is that in 2008 you were charged with stalking and a related offence. The background circumstances involved a bizarre course of conduct directed against a former partner. The matter was dealt with in the mental health diversion list in the Magistrates Court and ultimately, you were discharged without conviction. According to, the psychologist, Mr Minehan, the offending occurred in the context of a brief and discrete psychotic episode, which was subsequently successfully treated. You have no other history of psychosis, although you do have a longstanding history of depressive symptoms, anxiety and poor coping skills.

Your explanation for the criminal conduct is that it resulted from a poor decision taken after several months of deterioration of your general mental health, as a reaction to your perception of poor treatment at the hands of your employer. You have been the subject of a number of complaints and allegations in respect of your employment over several years, and you felt that the most recent complaint, in particular, had been poorly handled by your employer. You had become increasingly resentful of your employer's treatment of you, which had led to an intensification of the underlying symptoms of depression and anxiety, and you had experienced suicidal thoughts. In this frame of mind, you had formed a plan to break into the house and cause some damage with a view to being arrested and placed in gaol. You claim to have had no intention to assault anyone, although you knew that there would be a worker on duty and residents asleep in the house. You say that although you held no ill will towards the

complainant, you saw her on her telephone when you entered the house, and this somehow caused anger which then resulted in an irrational reaction.

Mr Minehan has expressed the opinion that you were suffering from a depressive episode at the time of the offending, although there is no evidence of psychosis. He is of the opinion that your mental health condition impacted on your capacity to make a calm and rational decision about breaking into the house. In this sense, your mental health condition reduces to a modest extent your moral culpability in respect of that decision. However, the link between your mental health and your subsequent actions in attacking the complainant is, in my view, more tenuous. Mr Minehan suggests that, upon seeing the complainant, you experienced anger which escalated to rage and that this was contributed to by emotional dysregulation arising from the mental health condition. He opines that the emotional dysregulation affected your capacity to calmly evaluate the situation and make rational decisions, and that you were reacting to this heightened and dysregulated emotional state when you attacked the complainant. I can and do accept that your condition contributed to your initial violent reaction towards the complainant, but the sustained and brutal nature of the attack is inconsistent, in my view, with the explanation provided by Mr Minehan. In my judgment, these aspects can only rationally be explained on the basis that you were attempting to prevent the complainant from seeking help. This conclusion is reinforced by the fact that after brutally attacking her in the house, you followed her outside as she attempted to escape and renewed the attack, including by utilising the knife to threaten her with lethal force. You did not voluntarily desist, rather the complainant eventually forced her escape from you. After she did so, you had the presence of mind to take her telephone with you. Although your mental health will be taken into account to the extent discussed, you still bear a high degree of moral culpability for the assaults.

You have been in custody since your arrest on 22 May 2021. Your mental health symptoms seem to have abated in prison, and you have found the time in custody to be a positive experience. You have strong family support and I am told that your family has made a specific plan to ensure that you are supported and have appropriate accommodation upon your release from prison. You claim to be remorseful, particularly for the impact of your actions on the complainant. I accept that you are remorseful in this way, and this is supported by your co-operation with police, refusal to apply for bail and early plea of guilty. You should receive appropriate credit in the assessment of sentence for these decisions.

Although your mental health does reduce your moral culpability in the modest way already explained, it is also relevant to the question of community protection in the future. This is now the second time in which you have acted in a bizarre and criminal way when you have suffered a deterioration in your general mental health as a result of external pressure. I am told that your family now has a much better understanding of your underlying mental health and is resolved to supporting you well into the future. I think the question of personal deterrence and community protection is a factor in sentencing, although I acknowledge that you and those close to you will now have better insight about the impact of a future deterioration in your mental health, and this will mitigate against the risk of a repetition of conduct of this nature in the future.

Ultimately however, the objective seriousness of the offending, the significant impact on the complainant, and the need for general deterrence all lead to the conclusion that the only appropriate sentence is a significant term of imprisonment. I will moderate the head sentence to take account of the mitigating factors which I have discussed, including the effect of your

mental health and your plea of guilty. I think it is also appropriate to provide an early opportunity for your release on parole.

Accordingly, the orders I make are as follows:

- 1 You are convicted of the crimes to which you have pleaded guilty;
- 2 You are sentenced to a global term of imprisonment of two years and six months, which will be backdated to 22 May 2021. You will not be eligible for parole until you have served one half of that sentence.
- 3 I specify the value of the knife as \$1, and order that it be forfeited to the State of Tasmania.