

Mr Wells you have pleaded guilty to one count of conspiracy. The conspiracy charge encompasses a course of conduct engaged in by you and your co-conspirator, Mr Thornton, between 11 November 2020 and 17 April 2021. The objective of your criminal agreement was to pervert justice by attempting to dissuade Ms Stott from giving evidence, or at least truthful evidence, against you in respect to family violence offences. The background to the matter is that you had been in a relationship with Ms Stott for approximately 2 years. The relationship had ended around May 2019. On 30 July 2020 you were issued with a police family violence order that remained operative until it was replaced by an interim family violence order issued by the Burnie Magistrates Court on 24 August 2020. As at the date you entered into the conspiracy, you were facing numerous charges in the Magistrates Court alleging that you had breached both the police family violence order and interim family violence order. Those allegations were as follows:

- Complaint 53172/20 – It was alleged that you had breached the police family violence order by calling the complainant approximately 70 times.
- Complaint 52156/21 – You were charged with one count of emotional abuse or intimidation. The allegation was that you had sent numerous messages via entries on electronic bank transfers to Ms Stott.
- Complaint 54207/20 – You were charged with one count of emotional abuse or intimidation and 33 counts of breaching the interim family violence order. Again it was alleged that you had sent the complainant numerous messages and made phone calls to her. Amongst the messages were some comments that might be seen as threats.

As at 11 November 2020 all the abovementioned summary complaints were pending in the Burnie Magistrates Court and were listed for either plea or mention. You were remanded in custody in respect to some of these matters of complaint.

On 11 November you contacted Mr Thornton via the prison's Arunta telephone system. You spoke with him and together you formed a conspiracy to pervert the course of justice in respect to the pending family violence proceedings. As noted, the conspiracy was directed at preventing or dissuading Ms Stott from giving evidence in the proceedings and/or withdrawing the complaints against you. You and Mr Thornton also planned to create false evidence by sending text messages from your mobile phone, at a time when you were in not possession of it, so that you might subsequently claim it was stolen and somebody else had the use of it, thereby creating the impression that you were not responsible for sending a number of the messages which formed the basis of many of the breach of interim family violence order charges, again in an endeavour to avoid criminal responsibility for the family violence offending.

Both you and Mr Thornton engaged in a number of acts in furtherance of the conspiracy. I am satisfied, the commission of all but one of those further acts are relevant to sentencing as they are reflective of the degree to which you acted in implementing the conspiracy and therefore, the extent of your criminality arising from your involvement in the conspiracy. Your commission of these acts are part and parcel of the "content and duration and reality of the conspiracy" (See *Savas v R* 1995 183 CLR 1). The one act I am not satisfied I should take into account in sentencing you, is your act of requesting a third party (who is not a party to the charged conspiracy) to contact Ms Stott and ask her not to go to court and give evidence. In

my view, this is a criminal act that is outside the parameters of the conspiracy, and taking it into account in sentencing would be to offend the principle enunciated in *R v De Simoni*.

The acts committed by you in furtherance of the conspiracy were: you asked Mr Thornton to speak to Ms Stott in an endeavour to either dissuade her from attending court or alternatively giving evidence to the court that was favourable to you. Mr Thornton in fact did this. You also asked Mr Thornton to create false evidence which might be provided to your legal representative, by arranging for him to send text messages from your mobile phone. You contacted Ms Stott directly yourself by telephone and letter and in general terms asked her to withdraw her statement or provide evidence in court that was favourable to you. The actions which flowed from the conspiracy were clearly directed at placing considerable pressure upon Ms Stott. Your communications utilised a number of mechanisms in an endeavour to bring about the desired effect, ranging from abusive comments and threats to emotional intimidation and expressions of love. Offers of money were also made. On occasions you spoke to Ms Stott directly via another inmate's phone account. Some of the written communications were sent via a false name. There were at least 13 phone calls between yourself and Mr Thornton in which there were discussions as to Ms Stott being contacted in order to dissuade her from giving evidence or giving evidence favourable to you. There were at least three written communications sent from you to Ms Stott. There were eleven occasions in which you spoke directly to Ms Stott in an endeavour to dissuade her from giving evidence or giving evidence that was favourable to you. The conspiracy to pervert justice extended over a 5 month period and involved assertive, prolonged and persistent endeavours to influence Ms Stott. Ultimately, the complainant was not dissuaded from giving evidence and all matters proceeded in some manner in the Magistrates Court.

By way of antecedents, the defendant is now 36 years of age. He has a lengthy record of offending, much of it directly relevant to the present crime. The defendant has over 130 prior convictions for family violence offences from 2017 to date, the main of them directed at this complainant. He could only be described as a persistent family violence offender. He has been sentenced to periods of imprisonment on many occasions for family violence offences. The most recent period of imprisonment imposed was in October 2021 for a charge of emotional abuse or intimidation committed against Ms Stott. For several years now his behaviour towards this complainant has simply been awful, and whilst it is trite to note he is not to be re-sentenced for his prior convictions, the contemptuous attitude he has displayed towards the family violence orders on this and previous occasions is relevant to specific deterrence. As to the defendant's background, his early childhood was marred by difficulties associated with his father's alcoholism. His father was frequently violent to his mother, his brother and him. When the defendant was about 10, his father addressed his alcohol difficulties. For as long as he can remember, his mother has suffered from multiple sclerosis. She is wheelchair bound and the defendant has spent considerable periods of time caring for her. He has qualifications as a roof plumber. He has, in the past, held periods of employment in the mining industry. For a period of about 10 years, he was in a stable relationship and in stable employment. Two children were born to that relationship. Prior to his more recent incarceration, he shared a good relationship with those children.

During the decade or so that the defendant was working in the mining industry he largely stayed out of trouble. There was some offending behaviour, but certainly not to the extent that appears on his record of prior convictions, post 2017. I am told it was around this time that his relationship with the mother of his children came to an end and he returned to live on the North-West Coast. He became involved with methylamphetamine and, in an all too common story,

his life has been in a downhill spiral ever since. I am told he recognises that his addiction to methylamphetamine has changed him considerably and acknowledges that if he does not address it, matters are unlikely to improve for him. Whilst he has been in custody he has undertaken some courses to address his addiction. It is of note that the last contact the defendant had with Ms Stott is now nearly 18 months ago. I am told he has accepted the relationship is over and has resolved that he will not contact her into the future. His determination to abstain from contact with Ms Stott is reinforced by the fact his family have told him that if he has contact with her, they will sever their relationship with him.

In terms of the relevant sentencing factors, general deterrence, specific deterrence and denunciation are obviously prominent. Although it is relevant that the attempt to dissuade the complainant from giving evidence failed, the conspiracy committed by the defendant nevertheless remains a very serious one. It was a planned and persistent attempt to interfere with the administration of justice. If the conspiracy had been successful, a vulnerable complainant would have retracted her complaint, or altered her evidence, out of pressure and intimidation and the capacity of a court to do justice would therefore have been impaired. The fact the conspiracy was directed at thwarting family violence prosecutions makes it particularly serious in my view. Family violence is a matter of considerable concern within the community. Persons who allege that they are the victim of such violence are entitled to the protection of the law against pressure from alleged perpetrators to change or withdraw evidence. Courts know that such pressure can make victims less likely to complain or persist with a complaint, and make it more difficult for offenders to be prosecuted. Such behaviour must be denounced and deterred. This was a concerted effort involving the application of considerable emotional pressure directed at manipulating the complainant to do as the defendant wanted. Because of these considerations, a substantial penalty is required.

I take into account the defendant's plea of guilty, which although not entered at an early stage, nevertheless retains some mitigatory value. It has saved the complainant from having to give evidence, which counts in the defendant's favour, particularly given she has already been exposed to pressure and manipulation. I do not, however, consider the plea of guilty to be evidence of genuine remorse. Given many of the conversations which grounded the conspiracy were recorded, proof of guilt was always likely. That being said, I do accept the defendant now accepts the relationship is at an end. I take into account there has been no attempt to contact the complainant for a considerable period of time now. That is relevant to specific deterrence and prospects of rehabilitation.

Adye John Wells you are convicted of the crime of conspiracy. I sentence you to 18 months' imprisonment backdated to commence on 5 January 2021 to take into account time spent in custody and not otherwise allocated to a sentence.