

Andrew Gregory, you have pleaded guilty to two counts of assault contrary to s 184 of the *Criminal Code*. I have also agreed to deal with one related summary matter, being one count of common assault committed against your wife. The background to all of the offending behaviour is that you and your partner had been in a relationship for approximately ten years. There are three children to the relationship, aged 6, 4 and 2 at the time of the incidents. You all lived together in a house in Somerset. In August 2020, you were involved in a serious motor vehicle accident. The accident was not your fault. It involved significant impact and left you injured physically. You sustained injuries to your left knee, left shoulder and neck, which required surgical intervention. More relevantly to these crimes, you also reported a range of psychological difficulties in the days following the motor vehicle accident. You have subsequently been diagnosed with Post Traumatic Stress Disorder.

Your partner noticed that from late 2020 and throughout 2021, following the motor vehicle accident, you spent more and more time alone in the shed, consuming alcohol and smoking cannabis. This became a source of argument between the two of you. Your behaviour became more verbally abusive, and at times your partner observed you to display quite erratic behaviour. You and your partner spoke on a number of occasions about your alcohol intake and you agreed to try and lessen it. It seems this was relatively unsuccessful and the arguments and difficulties continued. When you were drunk, you would make a number of abusive and threatening comments towards your partner.

On 21 June 2021, you and your partner were at home together. You were arguing. She went to bed and took your youngest daughter with her. Your daughter had just fallen asleep when you entered the bedroom and began arguing with the complainant. Because the complainant was concerned about what may happen, she started recording you on her mobile phone. I have listened to those recordings. You said some horrible things to your partner. You called her a "fuckhead". You said things like "If you leave me, four years later you will get bashed to death" and "No one would put up with you. You're a fucking moron. Absolute piece of shit". You told your partner that you wanted to "Punch her several fucking times". Your partner asked you to leave. You refused to do so. You grabbed her ankle and started to twist it hard, causing her to believe you might break it. The complainant can be heard on the recording to scream loudly in pain and yell at you to stop. You eventually did stop. As you walked away, you again levelled a number of abusive comments in her direction. Your two year old daughter was present during the incident and can also be heard on the recording. She is obviously upset. It is highly aggravating that you committed this assault in the presence of your young daughter.

In August 2021, following further arguments about your consumption of alcohol, the complainant took a six pack of your beer and went outside, telling you she was going to tip the contents onto the ground. She was in the process of doing so when you approached her, pushed her to the ground from where she was kneeling and then held her down in the area of her neck, just above her collar bone. You pushed her into the ground, yelling at her "You fucking bitch". You held her in this position for two or three seconds. Again, the two younger children were outside when this incident occurred and observed it.

On 12 November, you and the complainant had an argument about your consumption of cannabis. You had been without the substance for a period of time but had acquired some on this day. You used it excessively it seems. The complainant commented to you about your

state of intoxication. This led to another argument. You told the complainant she was "Shit" and that you hated being around her. In an endeavour presumably to control your cannabis intake, the complainant removed a cone piece from your smoking device. She refused to give it back to you. You grabbed hold of her in a bear hug, grabbed her wrist and attempted to pry the cone piece from her hand. When she refused to let it go, you lifted up her arm and twisted her shoulder. This caused her pain and she felt as though her shoulder might dislocate. In response, she kned you to the groin. She then threw the cone piece onto the ground. You laughed at her and said "Is that all you had, I have another four or five of those". The complainant picked up your smoking device. You became enraged, called her a "fucking bitch" and said "I fucking hate you". The complainant picked up your bag of cannabis and threatened to flush it down the toilet. You said "Do that and see what fucking happens". She went around the corner, out of sight. You ran after her and grabbed her around the shoulders. You leaned the complainant over and she fell onto the ground on her back. This caused her pain. Whilst she was on her back, you got on top of her and pressed your hands to the area of her neck, above her collar bone. You pushed her down hard into the ground with your hands. The complainant was fearful she would black out. She tried to fight you off. She kned you to the groin and was able to wriggle free. The complainant screamed and as she did so, observed your youngest daughter to be present in the room. When the complainant got up, she went to your eldest daughter's bedroom and saw that she was hiding under the blankets, crying. Clearly, your eldest daughter was also aware as to what was occurring. The fact that much of the violence was perpetrated in front of the children and in the knowledge of the children, and obviously caused them considerable upset, is in my view an aggravating feature of your crimes.

The complainant was able to leave the house and obtain assistance from some neighbours. They observed her to be having difficulty in swallowing when drinking water. Police were called. They made arrangements to collect the children. When police attended, the children were upset, crying and screaming. You were arrested and subsequently participated in a record of interview. You made some admissions including that you had assaulted the complainant by pinning her down. You denied, however, putting any pressure on her throat. You said to describe it as strangling was a bit extreme. You said you didn't think anything of the incident and thought the fact it had been reported to police was "crazy". You said that you had assaulted and threatened the complainant on previous occasions.

Many of the comments made by you in the interview suggested you had little insight into the seriousness of your behaviour. You implied that much of your behaviour was the complainant's fault because you felt she did not provide you with sufficient support following your PTSD diagnosis. You also suggested a number of the incidents had occurred because the complainant had "taunted" you.

You spent two nights remanded in custody before being granted bail in respect to these matters. You have no relevant prior convictions. Indeed, the only matter recorded on your criminal history is a traffic infringement matter.

You are now 38 years of age and up until the time of the motor vehicle accident, lived a productive law abiding life. You have qualifications as a landscaper and it seems in the past you have worked hard to provide for your family. Following the motor vehicle accident, your life changed and you struggled to cope. Your physical injuries meant you were unable to work. There was a considerable delay in a MAIB claim being settled because of some difficulties associated with proving prior earnings. Your medical conditions are yet to stabilise sufficiently for a personal injuries claim to be settled. You have experienced considerable pain since the

accident and, as previously noted, have been diagnosed with Post Traumatic Stress Disorder. Following the accident, you began using alcohol and cannabis heavily in an endeavour to cope with these various impacts.

I have been provided with a very detailed psychiatric report prepared by Dr Jordan. It is not necessary that I traverse the entirety of the report in these comments. It is sufficient to say that Dr Jordan notes depressive symptoms, including low mood, significant sleep disturbance, a lack of motivation and a degree of anhedonia since the accident. He opines the symptoms experienced by you are consistent with Post Traumatic Stress Disorder. Dr Jordan notes that following the accident, you began to misuse alcohol and increased your use of cannabis in an endeavour to soothe some of the symptoms derived from your PTSD. This, in turn, caused significant strain in your relationship with your partner. Dr Jordan opines the accumulation of these strains and stressors directly derived from the physical and mental health injuries flowing from the accident, led to you acting towards your partner in a manner that he considers was "wholly uncharacteristic".

What is of import in the sentencing exercise is the efforts you have made since the commission of these crimes. I note that of your own accord, you have checked yourself in as an in-patient at St Johns Detoxification Unit and then spent some time at Serenity House addressing your alcohol and cannabis use. You have relocated to live in a shed you built on a block at Waratah. You now live a very isolated life and I am told that has given you considerable time to reflect upon your behaviour. Although you have a limited recollection of what occurred because of your level of intoxication at the various points in time, you nevertheless now accept you behaved as the complainant alleges. You recognise that your behaviour was appalling. You accept that the complainant must have felt scared, intimidated and dominated by your behaviour. I am told that you remain hopeful that you may be able to repair your family relationships, but accept that will take considerable time. You are hopeful that at the very least, you will be able to resume a relationship with your children. It is certainly to your credit, that you have not consumed alcohol since 28 February this year.

Mr Gregory, I accept this behaviour is out of character for you. You are not a person who has previously been prone to violence. It certainly appears to have been precipitated by the motor vehicle accident. It counts in your favour that you have undertaken a number of steps, as I have outlined, directed at curbing the impact Post Traumatic Stress Disorder is having upon you. I am told you are motivated to maintain these changes and will continue to seek assistance for your condition.

There is no question that family violence crimes are always serious. They inherently involve a breach of trust and are typically committed against vulnerable complainants. Any act of applying pressure to the throat area is particularly serious. It is an inherently dangerous act which can cause the loss of consciousness and death very quickly, even if such consequences are entirely unintended. Moreover, underlying injuries can often be caused by pressure being applied to the throat. Such injuries may not manifest for quite some time. The courts have emphasised on many occasions the need to condemn family violence. In sentencing any family violence matter, general deterrence, denunciation, punishment and protection of victims are paramount sentencing considerations. It is also important of course, to bear in mind the circumstances that gave rise to the offending behaviour and the efforts towards rehabilitation that have been made. I take into account that you have pleaded guilty to all these matters and you are entitled to credit for that.

The objective seriousness of your offending, and the need for the courts condemnation of family violence to be communicated via the sentence imposed, means, in my view, a period of imprisonment must be imposed. But since the commission of these crimes, you have made sound progress and I am confident that you will continue to work towards your rehabilitation. Ultimately, that will be in your family's best interest and the community's best interest. I have therefore determined it is appropriate to suspend the period of imprisonment I intend to impose.

I will impose one sentence. Mr Gregory, you are convicted of all matters to which you have pleaded guilty. You are sentenced to 12 months' imprisonment. The execution of that period of imprisonment is wholly suspended for a period of two years on condition that you commit no offence punishable by imprisonment. Pursuant to s 13A of the *Family Violence Act 2004*, I direct that the offences and crimes be recorded on the defendant's criminal record as family violence offences.