

Mr Kelp, you have been found guilty by a Jury of five counts of assault and two counts of unlawfully injuring property. You were in a significant relationship with the complainant from about the middle of 2021. The first of these assaults occurred in September 2021 with the balance of the crimes occurring on 1 October 2021. It is for me to make findings of fact, but given the Jury would have needed to be satisfied beyond reasonable doubt as to the truth and reliability of the complainant in order to convict, the facts essentially flow from her evidence. I also found her to be a credible and reliable witness. Her evidence was compelling.

On about 25 September 2021, you and the complainant were lying in bed together. The two of you had had something of a disagreement and she was not really speaking to you. You, without warning, or indeed reason, punched her in the eye. It left her with a bruised eye. Afterwards you were apologetic and obtained her a cold pack. The complainant had two children who lived in the residence where the assault occurred. There is no evidence to suggest they observed or were aware of the assault.

The worst of your behaviour occurred about a week later on 1 October 2021. The complainant was at home with her two children, aged 6 and 4. They had gone to bed. You had been out and came home around 10.00 pm. When you came home, the complainant noticed that your behaviour was a little erratic. I am satisfied you had been using methyl amphetamine. You brought some of that drug home with you. You used some more and insisted the complainant consume some also. Your behaviour became increasingly angry and agitated. You started to accuse the complainant of having some form of relationship with your brother. Your behaviour became more irrational and you were obviously jealous. What happened over the next several hours was simply appalling.

You began to smash up items in the bedroom. You used a golf club to do this and also broke some metal rods off the bed frame and used those also. You broke photo frames, a television and various ornaments within the bedroom. You then turned on the complainant and you used the golf club and metal rods to strike her. You also punched her to the head and body. This assault continued over an extended period of time. At times you would pause and ask the complainant further questions and if she did not answer to your satisfaction, you would inflict further violence upon her.

At one stage, you and the complainant went to the lounge room area. Here, you caused more destruction by smashing the television with a metal pole. You also further assaulted the complainant. Again, you punched her to the head and body and used the golf club and metal rods you had broken from the bed frame to strike her. At one point, the two young children were in the lounge room and observed your violence upon their mother. Again, this violence was not fleeting but went on for a considerable period of time.

At one point, you dragged the complainant by the hair back to the bedroom. You continued to assault her in the bedroom. Again, you punched her to the head and body and used the golf club and metal bars to strike her. The complainant described being punched "all over her body" and being struck multiple times with the gold club and/or metal poles. I have seen photographs of the injuries inflicted upon the complainant. Clearly, there have been multiple blows inflicted upon her, both with fists and with the metal linear objects.

What you did to the complainant was nasty and it was cruel. She described the ordeal as lasting for six to seven hours. She said she was too scared to leave the residence and, in any event, her opportunity to do so was limited by the fact you would not leave her alone. I am satisfied the violence you perpetrated upon the complainant was on and off throughout the entirety of the evening and night and that you inflicted many, many blows upon her.

The complainant was left with significant bruising, some of which was very deep, and suggestive of considerable force. There was also much redness and swelling. She was very sore all over her body. She was having difficulty in breathing because of the number of blows you directed towards her rib and chest area.

Eventually, the complainant was able to get out of the residence and go and seek assistance from her neighbour. He called police and an ambulance. Bravely, she returned to her residence to retrieve her children. Police eventually arrived and arrested you. They found you in a cupboard where you had opened a gas canister. I observed the body worn camera footage when police arrested you. Your behaviour was highly agitated. You were obviously in a heightened emotional state. You were irrational and aggressive. This is consistent with the level of violence and aggression that the complainant described you displaying throughout the course of the night.

I also saw photographs of the state of your right hand, following your arrest. It was clearly very red and very swollen. Whilst you claimed to police in your record of interview that the swelling was a consequence of having used a boxing bag, I am left in no doubt that it was a direct consequence of the extent of the violence you inflicted upon the complainant. You also told police during your record of interview that you were not at the residence on 1 October and, indeed, did not even know the complainant. I am satisfied this was a deliberate lie told by you because you were unwilling to accept responsibility for your dreadful behaviour. You have shown no remorse.

As a consequence of the first assault in September, the complainant was left with a heavily bruised eye. As a consequence of the assaults on 1 October, the complainant was left with multiple bruises on her legs, arms, face and back. She also had redness and swelling, including to the upper forehead, consistent with her hair having been pulled. The bruising was particularly bad on the left shoulder and upper arm, and on the lateral and posterior ribs. A large bruise was noted on the thoracic spine. Multiple large bruises were noted on her thighs and legs and again were particularly bad on her right leg. Many of the bruises were linear in nature, consistent with being stuck by the golf club and/or metal bars as described by the complainant. There was significant bruising on both eyelids, the left side of her face was swollen and her left mandible was extremely tender. She was also very sore around the lower rib area. Subsequent X-rays did not disclose any rib fractures. She was treated with pain relief medication. I have seen photographs of the injuries you inflicted upon the complainant. It is, quite frankly, surprising that her injuries were not far more serious. The bruising and swelling to the complainant's face and body generally is vast.

Mr Kelp, your behaviour towards the complainant was, as I have said, cruel, frightening and degrading. You caused her significant physical harm but beyond that, you treated her with disdain. You also showed no concern for the young children who were in the house at the time of the incident. They were physically present for some of the violence, but I have no doubt were also well aware of the balance of the violence being perpetrated upon their mother, even if it was not occurring in their direct line of sight. It is highly aggravating that this violence

was perpetrated over several hours in the presence of young children. It is well understood that exposing a child to family violence in their formative years, can have a significant impact upon their development and psychological well-being. The true extent of the damage these crimes may have caused for the children may not be known nor appreciated for many years to come.

You have some criminal history, although there is nothing relevant in terms of violence. You have prior convictions for driving offences. In March 2022, you were sentenced by this court for firearm offences.

I have carefully considered the Victim Impact Statement of the complainant. Your crimes have had a devastating effect upon her. She was petrified during the protracted attack upon her and honestly believed she may die. Such a thought process is entirely understandable given the level of violence you perpetrated upon her. She speaks of feeling worry and concern for her children if she did not survive. The injuries took many, many weeks to heal. The complainant had to rely upon family members and even her young children to help her during that time because she was unable to move freely. She has been left with significant trust issues. She is constantly anxious, worried and apprehensive. She is concerned about the effect, witnessing these crimes and her long recovery, will have upon her children.

You are now 28 years of age. Up until the COVID-19 pandemic you had a strong industrial record, but have not worked a lot since. You were acting as a step-father to the complainant's two young children. That relationship is now at an end. You have struggled on and off with ICE addiction for a number of years. You were affected by methyl amphetamine when these crimes occurred. That, of course, in no way mitigates nor excuses your behaviour. You have displayed absolutely no remorse for your crimes. You are not entitled to the mitigatory benefit that would have flowed from a plea of guilty and, indeed, the behaviour you displayed towards the complainant throughout the course of the trial worsened the ordeal she was forced to endure by way of giving evidence. There are simply no circumstances that mitigate your behaviour.

Family violence crimes are always serious. They inherently involve a breach of trust and are typically committed against vulnerable complainants. Violence of this kind is simply inexcusable and it is intolerable. This was a protracted and persistent episode of violence. The scale of the injuries inflicted upon the complainant are testament to the number of blows which must have been delivered. As noted, in my view, it is most fortunate that the complainant's injuries were not far worse. Courts have, on many occasion, emphasised the need to condemn family violence. In sentencing such matters general deterrence, denunciation, punishment and protection of victims are paramount sentencing considerations. The only appropriate sentence is a substantial period of imprisonment.

The defendant is convicted of all matters to which he has been found guilty. I will impose a single sentence. That best reflects totality and the fact that his behaviour in respect to counts two to seven was, in effect, a continuing course of violent behaviour. The defendant is sentenced to two years and six months' imprisonment, backdated to commence on 31 March 2022 to take into account time already served in custody. I order the defendant is not eligible for parole until he has served one half of that sentence of imprisonment. Pursuant to s 13A of the *Family Violence Act* 2004, I direct that all crimes be recorded on the defendant's criminal record as family violence offences. I make a Family Violence Order in the same terms as the Interim Family Violence Order, dated 4 October 2021. That Family Violence Order will operate for a period of five years from today. I make a compensation order in favour of the complainant, the terms of which will be adjourned sine die.