

Daniel Oakley, the defendant, has pleaded guilty to one count of wounding and not guilty to a second count of wounding, but guilty of assault. The State has accepted his plea to the second count. The facts are as follows. The complainant is a female who I call R, and with whom the defendant had been in a relationship since March 2022. They shared a home with R's two young children from a previous relationship. Late in the afternoon of 31 August 2022, the couple and R's 2½ year old son were in a vehicle travelling toward their home. R was driving, the defendant was in the front passenger's seat and the child was in the back. During the trip R asked the defendant about some money that she had given to him earlier that day. She asked him how much money was left so that she could put it towards the payment of bills. It appears R financially supported the defendant by way of payment of household expenses. On being questioned, the defendant became irritated. An argument developed during which the defendant asked why he would tell "someone like you" about money. R became upset and told him that if he thought so little of her he could get out of the car. She then pulled over on the side of the road and asked him to get out. This appeared to anger the defendant who then launched himself towards R and bit into her left cheek. She described it in the following terms: "he clamped down on my cheek really hard and I felt my face crunch in his mouth. He was latched onto my cheek for about five seconds and tried to reach over and pull the keys out the ignition." Because of the bite, the skin on R's cheek tore and began to bleed. A struggle over the keys to the ignition followed with R finally relenting and allowing the defendant access to the keys. He got out of the car and stood next to the open door. He then tried to recover his phone from the foot-well of the car where it had dropped, but he took hold of R's phone instead. There was then a tussle over possession of that phone during which the defendant bit her on the thumb for an instant puncturing the skin. Ultimately, she started the car with a spare key and drove off leaving him on the side of the road. The latter part of the incident was observed by an off-duty police officer driving past. Police made their way to R's home and found her upset and crying. Blood was seen inside the vehicle. She expressed reservations about pursuing the matter, saying that she was better off not doing that. She told the officers that she did not want the relationship to continue and that she just wanted to be left alone. Police arranged for an ambulance to attend and the wounds were washed out with saline. She was taken to hospital but left shortly after. However she returned the following night, and was given a tetanus booster and intravenous antibiotics and kept over night. The defendant was arrested on 7 September 2022. When interviewed he made some limited admissions about an argument and wrestling over his phone but denied biting the complainant. He was detained and, it seems, remanded in custody for a time and later returned to custody. In total, he has spent 213 days in custody to date and is presently in custody. I do not have a victim impact statement but I am told that there is a mutual intention to resume the relationship.

The defendant is now 42 years old. He has a lengthy recorded history of offending, primarily consisting of drug and firearms offences, traffic offences of some seriousness and offences of dishonesty. There is no recorded history of violence. He has served a number of terms of imprisonment, prominent amongst which is a September 2015 term of 21 months' imprisonment, with seven months suspended on conditions of charges of stealing, aggravated burglary, receiving and being found prepared for the commission of a crime. When sentenced for those matters the following was noted. The defendant seems to have had a largely unremarkable childhood and upbringing. He had a good employment record, holding a job at a brick factory for six years, then completing a plumbing apprenticeship and working in that

occupation for a time. However, his cannabis use escalated to addictive illicit drugs. His marriage broke up, and he had not seen his then ten year old daughter for about three years because of his drug taking and associated behaviour. He had lost the house he was buying and had become transient and homeless. He had then achieved much in the way of stopping drug use although not completely successful. Since that time, it seems he has continued his struggle with drug addiction. He has served more recent terms of imprisonment, notably in December 2017 for a miscellany of matters. I was told that both he and R both have their struggles with addiction and are addressing the issue. Both were influenced by illicit substances on the day in question. Counsel submitted that he remains capable of meaningful employment. It was put that the relationship has been beneficial to him in the sense that for a long time he had no real stability in his life. Her parents are supportive of the couple and I have a letter from R's mother saying that in the 18 months she has known him, she has found him to be kind, caring and very helpful. She knows that the couple want to reconcile, go to counselling and give their relationship another chance. R's mother supports this. They have hopes to establish a small business in home maintenance and pest control. I am told that the defendant is very remorseful about his conduct. He pleaded guilty immediately once an accommodation had been reached with the State, that having come about after a change of lawyer. I note there was a second count on the indictment which has been discontinued. In that sense, the pleas can be seen to be relatively timely ones and there is utilitarian value in the resolution. Whilst in prison the defendant was appointed to the role of Peer Supporter in his unit. I have a letter from a member of the Red Cross which conducts that program. The author says that he has excelled in the role and has shown great compassion and empathy towards others. All in all, the defendant seems to be making progress with his rehabilitation over the last few years, albeit perhaps slowly.

Much has been written about the evils of violence within a relationship. It is a grave breach of trust and often difficult to detect. For various and complex reasons victims are often reluctant to see the perpetrators dealt with. Attempting to deter others and condemnation are prominent factors. The defendant has been a fairly persistent offender although I accept violence seems to be out of character. This case involves a spiteful and vengeful assault. Fortunately, there does not seem to be any long lasting injury or disfigurement. As permitted by s 13 of the *Family Violence Act* I consider it an aggravating factor that the defendant knew the child was present in the car, although there is no material to suggest the child's level of appreciation of what occurred. No doubt if awake, which may be appear likely given the course of things, it would have been frightening. R's apparent forgiveness is of some, but no great weight, although I take into account the mutual desire to stay together and that there is family support for that. Both recognise their need to work to continue their efforts to overcome drug use, and there are clear signs of an ongoing commitment on the part of the defendant to continue with his rehabilitation.

Mr Oakley, I have set out the facts and what I see to be the relevant considerations. Biting your partner on the face in a fit of anger and in those circumstances was a very nasty and spiteful thing to do. Overnight precautionary treatment was necessary. You are convicted of the crimes and sentenced to nine months' imprisonment to commence on 27 November 2022.

I direct the offences be recorded as family violence offences.