

Mr Gadd you have pleaded guilty to one count of make false threat of danger contrary to s 267AA of the *Criminal Code*. I am also dealing with a number of summary matters that arose out of the same incident, being one count of common assault, three counts of breach of police family violence order, two counts of destroy property and one count of posses a controlled plant.

As at November 2022 you were in a relationship with Ms Mitchell and had been for approximately nine years. There were three children born to that relationship who lived with you and Ms Mitchell, and two of Ms Mitchell's elder children from a previous relationship also lived with you. At the time you were subject to a police family violence order that had been issued on 24 April 2022. Conditions of that order included that you not directly or indirectly threaten abuse or assault Ms Mitchell and that you not damage the premises at ****address**** nor any of her personal property. At approximately 4am on 26 November 2022 you were at home with Ms Mitchell. At least some of the children were present, including your 11 year old daughter and 4 year old son. There had been a party held at the premises the day before to celebrate your birthday. It had gone into the early hours of the morning on 26 November. It seems that both you and Ms Mitchell had consumed a quantity of alcohol during the party. In the early hours of the morning of 26 November Ms Mitchell was asleep in the bathroom. You woke up and went into the bathroom to find her there. You became angry. You then went into the bedroom and smashed her television. That behaviour amounts to one of the counts of destroy property and it is also the subject matter of one count of breaching a police family violence order. You then walked outside and smashed two external windows in the lounge room. This is the second count of destroy property and also a second count of breaching a police family violence order. You went outside. Ms Mitchell followed you outside. There was an argument. You struck her to the face with a closed fist. Her lip sustained a slight injury and was swollen as a consequence. This is the count of common assault. At some point throughout all of this your 11 year old daughter telephoned police. I am told her 000 call to police demonstrates that she was exceptionally distressed. She had her younger brother with her in the room and was urging him not to leave the room. She told police apparently that you were very angry. I mention this because it is indicative of the harm that can be caused to children when they witness family violence. The fact you behaved this way knowing your young children were present in the house is an aggravating factor. You then made two telephone calls to 000 yourself. As you were on the phone to the operator you left the premises and began to walk away. I have heard both telephone calls played during the sentencing hearing. You were obviously angry and agitated. At times your behaviour towards the operator was aggressive. Some of the comments you made to the operator were quite irrational in my view. Amongst the things you said were the following:

- "Hurry up before I fucking kill this cunt."
- "I need to be locked up now otherwise I am going to kill someone."
- "I just smashed two of my fucking windows I have just smacked my misses in the mouth hurry up arrest me you cunts."
- "Before I kill some cunt or I kill myself do you fucking hear me."
- "I have a fucking handgun and a butchers knife... a fucking handgun 9ml Glock now get the fuck here now...yes it is loaded."
- "Send them here now you piece of shit before I burn down this building tell them to hurry the fuck up before I burn some place to the fucking ground."

- "Get them down here within the next five minutes or I am setting fire to something...I will kill a child if I have too, I will kill a child I will set fire to a fucking shopfront, I am not phased."

Because of what you said to the operator, police in the area were recalled to duty. Eventually you were arrested and transported to the Queenstown Police Station. When searched, police located a small zip lock bag of cannabis in your possession. Following your arrest you spent 42 days remanded in custody before being released on quite strict bail conditions. You have been compliant with bail conditions since your release.

You are 34 years of age. You are originally from interstate but relocated to Tasmania when you were approximately four. Your childhood was not an easy one. You had very limited contact with your biological father. He left your mother prior to your birth. He subsequently died in a mining accident when you were eight years of age. Your mother re-partnered. There was family violence within the home. You also were subject to sexual abuse from a cousin when you were aged between six and nine years. You had a difficult relationship with an older brother who often perpetrated physical violence upon you. Since leaving school at the end of grade 10 you have held a variety of labouring based positions of employment. You are currently employed as a skilled labourer for a contracting company on the West Coast and have held that position for the past 15 months. You do not have a particularly grave prior recorded criminal history. There are some matters of relevance. You were convicted in 2011 of offences under the *Misuse of Drugs Act*. In August 2022, just prior to this offending, you were convicted of a matter of common assault. That involved Ms Mitchell. You threw a mobile phone at her. You also destroyed some of her property. The matter was dealt with by the imposition of a modest fine.

It seems this offending came about because you were very drunk. I am told that your use of alcohol has been a difficulty from around the age of 11. You resorted to alcohol to deal with some of the abuse that was perpetrated upon you by your cousin. It has remained something of a constant in your life ever since. You have in the past made some endeavours to address your alcohol consumption but they have been largely unsuccessful and you have in the past returned to excessive use of alcohol.

Since your remand in custody however, I am told you have made a concerted effort to address your alcohol consumption and in fact have not consumed alcohol since your release on bail. I obtained a pre-sentence report in respect to you. You told the author of that report that you are conscious of the need to continue to work on your abstinence from alcohol and would welcome assistance in that regard. You also told the author of that report that the reason you made the 000 call was because you were aware your daughter had called police and did not want her to feel responsible for police having become involved. I reject that proposition. It is entirely inconsistent with the level of aggravation and aggression you displayed during the 000 call. I am satisfied you called police because you were angry, drunk and in a heightened emotional state and you wanted to be removed from the area before matters escalated further. I do accept, however, that you now recognise that what you said to the 000 operator was entirely unacceptable and that your behaviour was unnecessarily aggressive and difficult. I also note that your comment in respect to the handgun only arose after the operator had understandably questioned you as to whether you were in possession of one. You apparently jumped on that idea thinking it may facilitate your arrest. I also accept that you now recognise that your behaviour was very distressing for your children and you regret exposing them to it. I note in the pre-sentence report you told the author that you recognise that your children should not be

exposed to that sort of behaviour and you have vowed to do better and not allow it to re-occur. The period of time you spent in custody was difficult for you. You spent Christmas away from your family and there were many lockdowns being implemented at the prison during that time.

I note that you have pleaded guilty to these charges whilst they were in the Magistrates Court. You are entitled to credit for that.

There is no doubt that your behaviour was serious. Multiple police officers had to be called in to attend to you. The police did not know what they were walking into. Given some of the comments you had made, it was reasonable for them to anticipate they were about to be confronted by an unpredictable, armed and intoxicated person. It was a potentially dangerous situation and feelings of apprehension and fear would be most understandable. Crimes of this nature also divert valuable police resources away from where they may genuinely be needed. General deterrence is an important sentencing consideration. I do not overlook the crimes you perpetrated upon Ms Mitchell. Whilst the assault involved a single blow and caused only moderate injury, crimes of family violence are always serious and they are sadly all too common. As I have noted, the presence of children is an aggravating factor. It is now well understood that violence witnessed by children in the family home is not only distressing but it also serves to desensitise impressionable minds to violence and encourage the notion that resort to violence is acceptable.

In all of the circumstances your crime deserves imprisonment, but I intend to backdate the commencement of that period of imprisonment to take into account time you have already served and suspend the balance of the period of imprisonment I impose. I will also impose a community corrections order directed at providing you with some ongoing assistance particularly in respect to addressing your alcohol consumption.

I make the following orders. I convict you of all matters to which you have pleaded guilty. In respect to the possess a controlled plant charge I make no other order. In respect to all other matters I sentence globally. You are sentenced to six months' imprisonment backdated to commence on the 18 May 2023. The balance of that period of imprisonment, will be suspended on condition that for the next 18 months you commit no offence punishable by imprisonment. I impose a community correction order for a period of 12 months.

All core conditions will be imposed. Additionally, I impose special conditions that you must report to a probation officer at Burnie by close of business today. You must undergo assessment and treatment in relation to alcohol and/or substance abuse as directed by a probation officer, you must submit to testing for alcohol and/or drug use as directed by a probation officer. You must submit to medical psychological or psychiatric assessment or treatment as directed by a probation officer.

I make a compensation order in favour of Stacey Brooke Mitchell in an amount to be assessed.
I make a compensation order in favour of Karla Mitchell in an amount to be assessed.
I make an order pursuant to s 13A *Family Violence Act* that the one count of common assault and the two counts of destroy property be recorded as family violence offences.