

Mr Grining, a jury found you guilty of two counts of Criminal code assault, one count of aggravated assault and one count of recklessly discharging a firearm. Additionally, you pleaded guilty to three counts of unlawfully injuring property. The determination of the factual basis of sentence is a matter for me. I may only make findings adverse to you if satisfied beyond reasonable doubt they have been proved, and I may only make findings of fact in your favour if they are proved on the balance of probabilities.

On 13 December 2020, you went to the residence of your brother and sister-in-law, Guy and Sarah Grining, at the corner of Vivian Street and The Esplanade in Strahan. When you went there I find you were agitated. There had been a build-up of animosity between your brother and sister-in-law over the family business. You and your brother are the Trustees of World Heritage Cruises operating in Strahan. Other members of each family work there. Earlier in the day, you and your sister-in-law had exchanged terse words over the business office being closed over the lunch break. There had also been issues between you and your brother and sister-in-law relevant to other aspects of the business. It is not necessary in these sentencing comments for me to traverse those difficulties. It is sufficient to say that by 13 December 2020, I am satisfied that the relations between you, your brother and sister-in-law had become very tense and strained and there was considerable disagreement as to the manner in which the business was to be operated.

Your agitation on this day had been exacerbated by two other factors. You had been to visit your father that afternoon. He had expressed concern about the deterioration in the relationship between you and your brother and the future of the family business. That evening you had been at a workshop belonging to the business and had some difficulties with fitting a camper to your vehicle. In trying to realign it with a forklift, the forklift rolled and caused damage to the roller door of the workshop. You had also been consuming alcohol that evening, although not to a significant quantity. Nevertheless, I am satisfied the alcohol heightened, rather than dulled, the emotions you were experiencing.

All of these factors combined to place you in a state of considerable angst by the time you arrived at the home of your brother and sister-in-law shortly before 8.30pm. You parked your vehicle outside and walked through the pedestrian gate and towards the back door. As you did so, your sister-in-law, Sarah Grining, exited the house. There was a verbal altercation, initially, between you and her. She made it clear to you that you were not welcome at the residence. She told you to leave or she would call the police. There was a physical exchange between you and Sarah Grining. The jury found you not guilty of assaulting her. I suspect this is because they were not satisfied beyond reasonable doubt that any application of force was unlawful.

In any event, whilst you and Ms Grining were grappling with each other, your brother exited the home. He was armed with an axe handle. He saw you and Ms Grining involved in a physical exchange. I am satisfied he told you to let go of Ms Grining and to leave. You did not do so. He struck you with the axe handle towards the upper shoulder region. This impact had little effect upon you. You turned around, grabbed the axe handle and punched Guy Grining in the face and the rib area. Consistent with the jury verdict, I find this was not an act done in lawful self-defence, but rather an act done in retaliation for having been struck with the axe handle. Instead of retaliating as you did, you should have walked away. Both Sarah

Grining and Guy Grining had, by this point in time, asked you to leave the residence on several occasions.

Sarah Grining then pushed you. This caused you to release the axe handle and Guy Grining struck you a second time with the axe handle. This was in the upper shoulder area and most likely contacted your head. This blow caused you to fall to the ground. After a short period, you got up and walked out of the gate and back towards your vehicle. As you left the driveway you said words to the effect of "I'll show you, I'll fucking show you". Whilst I cannot be satisfied the blow resulted in any form of head injury which causally contributed to what happened next, I am satisfied that after the blow you became more emotionally heightened and aggrieved, as your brother's reaction was somewhat disproportionate. You returned to your vehicle. The prosecution case at trial was that at this point you rammed the vehicles of Sarah and Guy Grining. This was based predominately upon the evidence of Sarah and Guy Grining, but also other witnesses who observed various parts of the incident. There was also, however, a body of evidence to suggest you did not impact the vehicles at this point in time. In particular, I note the evidence of Caroline Grining, who suggested that when you returned home, she observed no damage to your vehicle; and the evidence of Adam Dixon and Patrick Botha whose evidence suggested there was no damage to your vehicle following this initial visit to Sarah and Guy Grining's home. You gave evidence, and entered your pleas of guilty to the three counts of unlawfully injuring property on the basis that all damage was occasioned on the second visit. To put it simply, the evidence is in such a state of conflict as to whether there was any damage occasioned to either Sarah or Guy Grining's vehicle on this first occasion, that I find it difficult to reconcile the inconsistencies in any way that enables me to reach satisfaction beyond reasonable doubt. I will therefore sentence on that basis that you departed the Grinings' residence on this first occasion without causing damage to property. In my view, it makes little difference to the sentencing exercise in any event because ultimately, the damage you caused to the property of Sarah and Guy Grining was extensive. I will return to that issue shortly.

After leaving the home of Sarah and Guy Grining, you returned to your residence. Your wife, Caroline Grining, was at home putting her young son to bed. She described you as entering the home as if you were on a mission. You went to the bedroom and obtained a firearm. Because of the obvious state of agitation you were in, your wife tried to stop you leaving with the firearm. Understandably, she was concerned as to what you may do. She grabbed hold of the barrel of the firearm. There was, what she described, as a "tug of war" over the firearm. Eventually, you pushed the firearm hard against her in order to make her let it go. She fell to the floor. This amounts to the crime of aggravated assault. Whilst Caroline Grining was on the floor, you stepped over her, went to a bedside table, collected some ammunition and left the bedroom. Caroline Grining went out onto the deck and called her brother-in-law. You observed her on the phone as you went to leave the residence. You grabbed the phone out of her hand and threw it onto the deck. You then discharged the firearm towards the phone. This amounts to the crime of recklessly discharging a firearm. When you fired the firearm, Ms Grining was only a short distance from you. Her son was asleep in a nearby bedroom. As a matter of fact, the discharge did not strike the phone. The phone slid across the deck and fell off the edge shattering the back of it. The discharge from the firearm struck the deck and caused damage. I am satisfied you discharged the firearm in circumstances where there was risk to both person and property. Caroline Grining was very close to you, albeit I accept behind you. You had no control however as to how she may react. She may have tried to grab the firearm. She had done so earlier. The manner in which you gave evidence about this incident satisfies me that you had very little insight into the risk associated with discharging a firearm in close proximity to other persons. You rather arrogantly suggested that you were in complete

control of what was occurring. As I already noted, given your obvious state of angst, I simply do not accept this.

You re-entered your vehicle with the firearm and returned to the home of Sarah and Guy Grining. The manner in which you drove your vehicle to the residence, which was described by various witnesses as at high speed and with excessive revving, speaks to the level of agitation you were experiencing. When you got to their home, you exited the motor vehicle with the firearm. You were holding the firearm, in a shooting position, although your finger was not on the trigger. You were pointing it at the house when Patrick Botha arrived. At one point you walked to the back window of Sarah Grining's vehicle and used the butt of the firearm to smash it. After some effort, Mr Botha was able to convince you to give him the firearm. It is fortunate he was successful in doing so, because but for his intervention, there was a real risk, in my view given your level of agitation, and the fact that the firearm was loaded, that something untoward may have occurred with the firearm, even if that was never your intention. Carrying a loaded firearm in a public street is an inherently risky act. It can cause considerable alarm for members of the public, as it did here. Of course, you are not to be sentenced for being armed in public but your possession of this firearm in this manner heightened the sense of fear and uncertainty Mr and Mrs Grining must have experienced as a consequence of the entirety of your behaviour this evening.

After Mr Botha removed the firearm from you, you returned to your vehicle and proceeded to use your vehicle to ram the vehicles of Sarah and Guy Grining. You drove your vehicle into Mr and Mrs Grining's motor vehicles on several occasions causing significant damage to each of them. You rammed Guy Grining's motor vehicle with such ferocity that you pushed it up against the house, causing the house to shake. Having rammed both vehicles on several occasions, you turned to use your vehicle as a weapon against Sarah Grining. She was standing on the back stairs, which ran from the porch to the carport area. You drove your vehicle, at a speed of approximately 29kmph, down the driveway and into the carport. On route you struck gas bottles and a heat pump. You were driving directly at Sarah Grining. Fortunately, before the vehicle struck her, she was able to jump up onto the porch. You drove straight through and destroyed the steps she had been standing on only a matter of moments earlier. I am not satisfied beyond reasonable doubt that you drove your vehicle intending to hit her, but I am satisfied beyond reasonable doubt that you drove your vehicle at her, intending to scare her and invoke within her a fear that she would be struck. Quite frankly, given your level of agitation and the manner in which you drove your vehicle through a very tight space, it is most fortunate that she was able to jump out of the way. I do not consider that you were exercising any level of sensibility or control at that point in time. What you did to her was dangerous and spiteful and was directed at causing her fear and upset.

You continued your journey through the carport, crashed through the back fence and entered a neighbouring property. You then drove off, eventually making your way back to your residence. You were found there by police shortly after.

The total damage you caused to the motor vehicles was in excess of \$90,000. The damage you caused to the residence was in excess of \$35,000.

There were a number of aggravating features about your behaviour. When you first arrived at the residence of Guy and Sarah Grining, you were asked to leave. You refused to do so. Whilst the assault you perpetrated upon Mr Grining did not cause any actual injury, he had a pre-existing injury and his arm was in plaster when you struck him. The assault you perpetrated

upon Sarah Grining was most serious indeed. You used your car as a weapon. You travelled through a very restricted area at some pace. You, as I have already noted, were in a state of agitation and were exhibiting very little control. You could easily have caused her significant injury, or worse. You struck gas bottles, the heat pump and the stairs of the home. The speed at which you were travelling largely destroyed these items. That speaks to the extent of the injuries likely to have been sustained by Ms Grining had she been struck. It was an incredibly reckless act. Having observed you give evidence I am of the view that you have very little insight into just how easily matters could have become a lot worse this particular night.

I have received impact statements from Sarah Grining and Caroline Grining. Sarah Grining has clearly been traumatised by your behaviour. She was left with general bruising and tenderness as a consequence of the assault. Her foot was injured when she had to jump out of the way. That injury subsequently became infected, which was an additional difficulty for her. She has suffered both emotional and financial impact. Because the vehicles were in fact owned by the family trust, of which you are a trustee, it was a long and complicated process to have the insurance company make payment for the damage you had caused. This was an additional stress and financial burden for Ms Grining. She has experienced sleepless nights since the incident and is often anxious.

Caroline Grining was very scared by your possession and use of the firearm. She was concerned she might be shot. Her young son, who was at the home, heard the discharge. He too was traumatised by the thought that his mother may have been harmed.

You are 54 years of age. As I have noted, you are a trustee of the business World Heritage Cruises. By way of prior convictions you have a number of traffic infringement matters and three prior convictions for offences under the *Road Safety (Alcohol and Drugs) Act*. You have no prior convictions for crimes of violence against person or property. You grew up on the West Coast in a supportive family. After completing schooling, you undertook a number of courses, which led to you gaining qualifications as a diesel fitter. You returned to the West Coast and began working at a business that operated a jet boat upon the King River. Eventually, you bought that business and in time, that business transitioned into World Heritage Cruises. You have two adult children from your first marriage which ended in 2012. You maintain a good relationship with each of those children. In 2019 you married Caroline Grining. You separated in September 2022. Until these crimes you were a well-regarded, largely law-abiding member of your community. I take into account that these crimes occurred following an escalation of antipathy between you, your brother and sister-in-law, but in my view nothing which had occurred in respect to the operation of the business justified your extreme reaction. I accept that because of your criminal behaviour you will no longer be able to work in the family business, although you will continue to receive financial support from it. Not being a part of it will be very difficult for you. You have been intimately involved in building the business since 1991. You have lost the relationship you previously enjoyed with your brother and sister-in-law. I also accept that you have endured an amount of public speculation about your actions, have been forced to leave your home town and have suffered a degree of public humiliation.

What you did was highly dangerous and destructive. Given the nature of your conduct, the amount of actual damage done to the house and motor vehicles, the physical and emotional damage you have caused to Guy and Sarah Grining, and the fear you caused Caroline Grining, the only appropriate sentence is one of imprisonment. The question I have grappled with is whether you ought to be made to immediately serve all or any part of that period of

imprisonment. Quite frankly, it is a borderline situation. You have no relevant prior convictions. I accept this behaviour is out of character for you. I accept it came about as a consequence of a build-up of animosity. That, of course, in no way justifies what you did, but it is relevant to my consideration of whether there is likely to be a repeat of this type of offending. I am of the view there is not, and therefore personal deterrence is not a significant sentencing consideration. Even though you pleaded guilty to the three counts of unlawfully injuring property, any mitigatory value is dissipated by the fact the trial was required to proceed in any event. Whilst the pleas of guilty do show an acceptance of responsibility, it was in circumstances where it would have been most difficult to avoid responsibility. I do not consider the pleas of guilty to be indicative of remorse. Whilst I accept you may regret the end result of your criminal behaviour, there is little evidence that you have demonstrated remorse in any way relevant to sentencing.

These acts were ones of deliberate, persistent and wanton destruction and damage. The assault of Sarah Grining, by driving the motor vehicle at her is a serious matter calling for condemnation. Your heightened emotional state and obvious level of angst made the risks inherent in what you were doing even greater. These matters clearly give rise to weighty considerations of general deterrence and denunciation. I regard the objective seriousness of your offending, together with your moral culpability, as high. This was dangerous and reckless conduct carried out, in respect to the second visit at least, on a pre-mediated basis and for vindictive reasons.

Balancing all of these considerations, I have determined a substantial period of imprisonment must be imposed, but given your prior good character, and the improbability of there being a repeat of this type of behaviour, the sentence should be wholly suspended.

Troy Donald Grining, you are convicted of all crimes to which you have pleaded guilty or been found guilty. I intend to sentence globally in respect to all matters. You are sentenced to a period of imprisonment of 18 months. The whole of that sentence will be suspended for a period of two years on condition that you not commit another offence punishable by imprisonment during that period. I make a compensation order in favour of CGU insurance in respect to both the house and the motor vehicles, the terms of that order will be adjourned sine die. I make a forfeiture order in respect to the firearm. I am satisfied that it is tainted property. I am satisfied it has an approximate value of \$2,500. I order that the crime of aggravated assault be recorded as a family violence offence. I make a family violence order for a period of three years from today's date, in favour of Caroline Grining. It will be in terms of the family violence order dated 18 July 2023, save and except that the reference to the child and the primary school be deleted from paragraph 6. The address in paragraphs 4 and 7 will be amended to [address redacted]. Pursuant to s 55 of the *Sentencing Act*, I am also satisfied it is appropriate to make a disqualification order. There is a public interest in discouraging the use of vehicles as weapons and a period of disqualification ought to flow to those who choose to use them as such. You are disqualified from holding or obtaining a driver's licence for a period of nine months. The disqualification order will commence as at 9.00am on Wednesday, 13 September 2023.