

Mr McDermott, you have pleaded guilty to one count of aggravated assault. The complainant is a woman with whom you were in a significant relationship for approximately ten years. Five children were born to that relationship. The relationship ended towards the end of 2019. Ms Goss retained the primary care of the children but they spent time with you on weekends.

On 9 January 2020, an interim family violence order was made with protective conditions to the benefit of the complainant and the children. Arrangements were made for you to spend time with the children on the weekend of 5 and 6 December 2020. It was agreed that you would return the children to Ms Goss on the Sunday evening. Throughout the afternoon of Sunday, 6 December you messaged the complainant seeking to alter the arrangements and advising her that she would need to collect the children. She told you she was unable to do so because she had consumed some alcohol. This led to an exchange of argumentative text messages.

At approximately 6.30 pm, the complainant messaged you enquiring where the children were because it was nearing their bedtime. Shortly thereafter you attended the complainant's residence with the children. You knocked loudly on the door. When the complainant answered it, you were standing there with your seven year old son. The complainant sarcastically asked you if you could knock any louder. You responded by taking a silver object from your pocket. The object resembled a revolver. You pointed it at the complainant's face, pulled the trigger, causing it to make a clicking sound. You then put the object back into your pocket and walked away. Your seven year old son immediately became upset and began to cry and ran into the house.

The complainant ran outside. She was distressed. Your mother was present with some of the other children. The complainant yelled that you had pointed a gun at her. The other children became distressed. Your mother tried to calm the situation by suggesting the object was merely a water pistol. The children were returned and you and your mother left the area. The complainant reported the incident to police.

On 9 December 2020 you were arrested. You made no comment in relation to the allegation. Further investigation occurred, including police interviewing your seven year old son about the incident. This was a most difficult experience for him.

I am told the object you used to threaten the complainant was not a traditional firearm that was capable of discharging ammunition. Whilst, of course, it is a relevant factor that the object was not capable of propelling a projectile and, therefore, did not have capacity to cause actual physical harm, it appeared to the complainant to be a firearm and it caused her trauma and distress.

In that moment, she believed it was a real firearm and she has been badly affected by the incident. She experiences stress and anxiety. She has also been exceptionally troubled by the impact your behaviour had on your son. In her impact statement the complainant describes that your son has transitioned from "being a happy child with not a worry in the world to being a very sensitive boy who worries about everything."

It is a very serious aggravating factor that you behaved this way in front of your young son. He has obviously been significantly impacted by your behaviour. You showed no regard for

his wellbeing, or indeed that of the other children who were in the immediate vicinity, and who were also impacted by the complainant's understandable reaction to your behaviour. In my view, you showed callous disregard for the wellbeing of the complainant and your children. Because you could not get your own way in terms of the arrangements to return the children, you reacted aggressively and violently to what really was a most trivial issue. In my view this is a serious example of the crime of aggravated assault.

You are 35 years of age. In addition to the five children you have with the complainant you have a further child born to a new relationship. I am told that relationship is a supportive one. I take into account your plea of guilty. It is an acknowledgment of your wrong doing and also some recognition of the fact that your conduct has had a significant impact upon the complainant and your children. It is, however, a very late plea of guilty. The matter was listed for trial. The complainant and your son had travelled from interstate in readiness to give evidence on the trial. Both of them had been briefed by prosecuting counsel. I am told that was a difficult experience for each of them. Both were present at Court ready to give their evidence when you entered your plea of guilty. I nevertheless accept the plea of guilty retains some value in mitigation as ultimately the complainant and your son did not have to give evidence in a public court room and speak about what was obviously a traumatic event for them.

You have a relevant history of prior offending, including convictions for driving offences, bail offences, drug offences, offences contrary to the *Firearms Act*, namely possess an unregistered firearm and possess a firearm when not the holder of a firearm licence of the appropriate category. You have previously been sent to gaol for driving offences and bail offences. In December 2022 you received a three month period of imprisonment for matters of that nature. I am told that since that incarceration you have experienced panic attacks and seizures. You are undertaking medical investigation into the cause of these. You have a history of illicit drug use, but in more recent years have worked hard to overcome that. You are currently engaged in counselling to try and address some underlying trauma issues stemming from your upbringing.

Mr McDermott, violence within family relationships is a particular matter of great community concern. Such crimes involve a terrible breach of trust. The complainant is the mother of your children. She was entitled to be treated respectfully. Moreover, your children are entitled to see their parents treat each other with care and decency. Your behaviour is aggravated because of the presence of the children when the incident occurred. It is well understood that exposing children to family violence can have significantly deleterious effects upon them. Courts have emphasised on many occasions the need to condemn behaviour such as yours.

In sentencing any matter of this nature, general deterrence, denunciation, punishment and protection of victims are paramount sentencing considerations. I had you assessed for Home Detention as a possible sentencing option that may meet these sentencing aims. You are unsuitable. I am of the view the only viable sentencing option remaining is a term of imprisonment. Such is necessary to mark the seriousness of this incident of family violence. A very clear message must be sent to you and others who may be minded to behave as you did in situations involving child handovers, that such behaviour is not acceptable and will not be tolerated. Having regard, however, to your personal circumstances and in particular to the efforts you have made in more recent times to stabilise your life, I am satisfied the execution of that period of imprisonment can be properly suspended. It will be accompanied by a Community Correction order directed at assisting you in your ongoing rehabilitation.

I make the following orders. You are convicted of the crime of aggravated assault. You are sentenced to nine months' imprisonment, the execution of which is suspended on condition that you commit no offence punishable by imprisonment for a period of two years. In addition, I make a Community Correction Order, the operational period of which will be 12 months and will include the following conditions. The statutory core conditions of a Community Correction Order are imposed. Those conditions will be set out in a document that will be provided to you. In summary, they will include the following conditions that will apply for the entire operational period:

- You must not commit an offence punishable by imprisonment;
- You must report to a probation officer as required by the probation officer;
- You must comply with the reasonable and lawful directions of a probation officer or a supervisor;
- You must not leave or remain outside of Tasmania without the permission of a probation officer; and
- You must give notice to a probation officer of any change of address or employment before or within two working days after the change.

I impose the following special conditions:

- You must during the operational period of the order submit to the supervision of a probation officer as required by the probation officer;
- You must comply with directions regarding referrals to and compliance with alcohol and drug services and family violence services;
- You must undergo assessment and treatment for alcohol or drug dependency as directed by a probation officer;
- You must for the duration of the operational period of the order submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer; and
- You must attend, participate in and complete the Family Violence Offenders Intervention Program as directed.

I order that you report to a probation officer at Devonport by close of business tomorrow. I direct that the crime of aggravated assault be recorded as a family violence offence.