

Mr Compain, you have pleaded to four counts of assaulting a police officer contrary to s 114(1) of the *Criminal Code*. The charges arise out of events on the afternoon of 29 January 2022. At that time, you were living at your mother's property in Epson Road in Penguin. The house on that property sat some way from the road and was accessed via a long driveway. On the afternoon of 29 January 2022, your mother received information to suggest your mental health was unstable. You had apparently made threats to her husband. She consequently rang the police and asked them to conduct a mental health check upon you. She told police that you had battled with mental health issues for a long time and would probably need to go to the Spencer Clinic.

Seven police officers attended the Epson Road property. They were Senior Constable Mark Lodge, Senior Constable Amy Boulton, Senior Constable Damian Howden, Senior Constable Emilie Dellar, Constable Oliver Smith, Constable Daniel Cathcart and Sergeant Scott Poke.

Upon arriving at the property, it was determined that officers Cathcart, Boulton, Smith and Dellar would drive in police vehicles, down towards the house, whilst officers Poke, Lodge and Howden would walk down. Upon reaching the house, officers Lodge, Smith and Dellar went inside to speak with you, whilst officers Howden, Boulton, Poke and Cathcart remained outside.

As he entered the house, Senior Constable Mark Lodge called out to you and identified that police were present. He particularly identified himself as being a police officer from the Penguin area as he had had some prior involvement with you. He asked for permission to enter the house but received no response from you.

As Senior Constable Lodge and Constable Smith began to move through the residence, they saw you exit the back of the house. They heard you repeatedly yelling, "Get the fuck out of my driveway you cunts".

As you exited the rear of the residence, Senior Constable Howden was outside the rear of the house, adjacent to a motor vehicle. You observed Senior Constable Howden. You yelled at him, "Get the fuck off my property". Senior Constable Howden replied that he needed to speak with you. You responded by yelling, "Fuck off or I'll shoot" and you fired an arrow from a compound bow towards him. The arrow was discharged quickly, and Senior Constable Howden had no time to respond or take protective measures. He did not actually see the arrow coming towards him, but he heard the sound of it as it passed close by to his head.

Senior Constable Amy Boulton was standing in the same general area. The sound of the arrow as it flew by Senior Constable Howden's head was recorded on her body-worn camera. As it passed by Senior Constable Howden's head, it made a loud swooshing sound. The arrow only missed Senior Constable Howden's head by approximately 50 centimetres. If it had struck him, there was potential for it to cause very serious injury. I do not accept, given your heightened emotional state that you were acting with any careful control of your actions. It was an exceptionally dangerous thing for you to do.

Having seen the arrow fired at Senior Constable Howden, Senior Constable Boulton advised all other officers to immediately evacuate the area. The officers retreated to the police vehicles

which were parked in the driveway. After further discussion, Senior Constable Lodge and Constable Smith determined to return to the residence to see if they could negotiate with you. They saw you at the rear of the residence, still holding the compound bow and arrow. You were moving in and out the back door of the residence. At one point, you yelled, "I'll kill you cunts, fuck off or I'll use this thing". As you yelled this, you charged towards Constable Smith with the compound bow, loaded with an arrow, held up in a firing position. Constable Smith believed he was at risk of you discharging the arrow towards him and retreated to a place of safety.

Meanwhile, Senior Constable Lodge had made his way to the rear of the residence, and was standing adjacent to a motor vehicle. You exited the rear of the residence, again with the compound bow loaded with an arrow. You pointed it directly at Senior Constable Lodge and advanced towards him in an angry and threatening manner. Senior Constable Lodge believed that if he did not withdraw, it was likely that you would discharge the arrow at him. He also retreated to a place of safety.

Following this, all the officers in attendance gathered in the vicinity of the police vehicles in the driveway. They observed you to get into your Toyota Hilux. Senior Constable Lodge called out to you, and you engaged in a brief conversation with him. You then reversed your motor vehicle up the driveway, at speed, and in the direction of the police officers who were standing near their vehicles. At one point your vehicle struck an object. That did not stop you. You continued to accelerate rapidly up the driveway and four of the officers had to jump out of the way to avoid being struck by your vehicle. One of the officers estimated the reversing speed of your vehicle was more than 40 kph. A neighbour who observed the incident, described your vehicle as *"revving loudly, wheels squealing and reversing up the driveway fast before it turned and struck something solid. The vehicle sped up the driveway at speed with police scattering in all directions"*.

The behaviour of driving your motor vehicle directly at the police officers constitutes the fourth count of assaulting a police officer. It is aggravated by the circumstance that you were endeavouring to prevent your lawful apprehension at the time you did it.

You managed to leave the residence. Some hours later your vehicle was stopped on the Bass Highway, and you were arrested and detained. When police searched the Epson Road residence, a crime scene having been declared, police found a sword lodged in the ceiling and a knife lodged in the wall. The arrow that had been fired at Senior Constable Howden was found near a fence on an adjoining property.

Following your arrest you were remanded in custody. There has been a total of 615 days you have spent in custody in respect to this, and other matters, that have not yet been attributed to a sentencing order. Many of those matters are summary matters, including serious allegations of family violence and offences under the *Misuse of Drugs Act*. Those matters are still unresolved in the Magistrates Court. There has been a history of non-compliance with bail orders and family violence orders and your bail in the Magistrates Court has been revoked. The State submits I should only backdate the sentence I impose today by a period of 117 days as that is the time that you have specifically been remanded in custody in respect to these matters, and the balance period for which you have been remanded in custody relate to summary charges and, the State submits, that time can be taken into account when the Magistrates Court ultimately disposes of outstanding matters. Your counsel submits, however, I should backdate

the sentence to accommodate all of the time that you have spent in custody to date on these and other charges, as there is uncertainty as to what the outcome of the summary charges may be.

In accordance with *Geale v Tasmania* (2009) 18 Tas R 338, I have a discretion as to whether I make allowance for time spent in custody in relation to the unrelated charges. I have determined I am going to accommodate all of the time that you have spent in custody into this sentencing order. In my view that best guards against the potential for an injustice arising, namely you spending time in custody and that time never being allocated to a sentencing order. I have no way of knowing the likely outcome of the matters before the Magistrates Court. I am told some matters are contested. You have spent a considerable period of pre-sentence time in custody and in my view, it is only fair that there be certainty about that being allocated to a sentence. If the Magistrates Court has to sentence you in due course, they will have the benefit of knowing what this Court has done.

You are 42 years of age. You have a substantial record for prior criminal offending. I note you have ten prior convictions for common assault, two prior convictions for assaulting a police officer and prior convictions for using abusive language to a police officer and threatening a police officer. Additionally, you have prior convictions for breaching police family violence orders, offences under the *Road Safety (Alcohol and Drugs) Act*, offences contrary to the *Misuse of Drugs Act* and several other driving offences.

You have had a difficult upbringing. You were born in Western Australia. Your parents separated when you were quite young. Theirs had been a volatile relationship. Initially, you had very little to do with your father following the separation. He relocated to New Zealand and you lived with your mother. Your mother remarried. You had a difficult relationship with her and your stepfather. At times, your stepfather was physically violent towards you. It led to you spending significant periods of time away from the family home. You resided with your grandmother for a period. You also travelled to New Zealand and spent time living with your biological father.

You were diagnosed with ADHD when you were aged approximately 8. You were placed on Ritalin from an early age. You consider that the prescribed use of Ritalin from such an early age led to your later drug addictions. You began using cannabis when you were approximately 13. You have been a regular user of cannabis for most of your life. You began using amphetamine at approximately 18 and subsequently progressed to the use of methyl amphetamine. In a pre-sentence report that I obtained in respect to you, you reported to the author that you continue to use illicit substances and have no intention of ceasing your use of such substances. This is a most concerning attitude as it undoubtedly complicates and exacerbates your mental health difficulties.

As to that, you have a long history of mental health difficulties. You have been diagnosed with schizoaffective disorder and you are treated for this via Depot injection. There have been times when you have been subject to mental health treatment orders. I note there was one such order in place between February and April of this year.

I am told that in the lead up to this offending, you had experienced some difficulties with police. Apparently, there had been an encounter between you and police prior to January 2022, in which you perceived you had been badly mistreated. This experience left you shaken and apprehensive and with a considerable distrust of police. I am told that when seven police officers arrived at your residence, you felt overwhelmed and intimidated. In response, you

prepared your bow and loaded it with an arrow and demanded police officers leave. When they did not, you fired the arrow and behaved as I have described.

Your offences have had a terrible impact upon two of the police officers in particular. I have received detailed victim impact statements from Senior Constable Boulton and Senior Constable Howden. That, of course, is not to say the other police officers who were assaulted were not impacted by your crimes. Police officers who routinely put their personal safety at risk in the service of the community can, and often are, subject to profound and continuing impacts from crimes of this nature.

Senior Constable Boulton was shocked and scared by observing the arrow that you discharged, pass so close to Senior Constable Howden's head. She genuinely believed that she and the other officers were at risk of death. She was also concerned that if matters continued to escalate, she might be required to use her firearm upon you. She was most troubled by the thought of having to, potentially, cause harm to you. It is unfortunate that you were unable to display the same basic level of respect and decency towards the police. After the incident, Senior Constable Boulton was diagnosed with Post Traumatic Stress Disorder. She has been left in a situation whereby she experiences ongoing and significant impairment in terms of anxiety and hyper-vigilance. I do not intend to discuss in detail the impacts your crime has had upon her. Such matters are personal, but it is summed up by noting that she has been unable to return to work in a front-line role. What she thought her policing career would look like, has been immeasurably changed by your crime.

The prosecution submit Senior Constable Boulton has suffered serious bodily harm within the meaning of s 16A of the *Sentencing Act*. I accept that she has. I have had the benefit of a psychological report which confirms the diagnosis of Post Traumatic Stress Disorder, the cause of which is said to arise predominately from your crime.

Senior Constable Howden has also suffered terribly because of your criminal behaviour. He finds himself constantly on edge, does not feel safe and is left feeling hyper-vigilant and anxious. His relationships with others have been affected. He is unable to sleep. He has flash backs to the incident, constantly reliving the moment when the arrow passed so near to his head. The impact upon him has been significant and is likely to continue for a considerable time.

All of these police officers were simply doing their duty and endeavouring to help you, following your mother's request to check on your well-being, when you launched your violence upon them. There is nothing before me to suggest you did not appreciate the wrongfulness of what you were doing, and whilst I acknowledge you have obviously experienced mental health difficulties over many years, there is nothing before me to suggest the considerations discussed in *Verdins* have any operation here. Your behaviour was, in simple terms, appalling.

Assaults on police officers who are acting in the execution of their duty and for the protection of the public, often exposing themselves to risk of injury as in this case, must be condemned. General deterrence and denunciation are significant sentencing considerations. Given your history, so too is specific deterrence.

I take into account your pleas of guilty. They were certainly not entered at an early stage, but I accept that some time has been required for your mental health to settle, such that you were able to calmly reflect upon your behaviours and the criminality associated with them. I have

already mentioned the time you have spent in custody. I accept that much of that time has been onerous and that you have been subject to a large number of lock downs and therefore have had limited visitor contact and programme availability.

In my view, these assaults are very serious. Senior Constable Howden is lucky. I do not accept that you had precise control over the path the arrow took. Had the arrow struck Senior Constable Howden in the head, there is a very real chance that he would have been grievously, if not fatally, injured. When you advanced towards Constable Smith and Senior Constable Lodge with the bow and arrow, they knew that you had discharged an arrow towards Senior Constable Howden, thus their fear and concern that you may do the same in respect to them must have been very real and concerning. When you drove the motor vehicle in the direction of the four police officers, you were in a heightened emotional state. You were trying to get away from the police. You were not exercising great control of the motor vehicle, as evidenced by the fact it struck a tree stump. It is most fortunate the police officers were able to successfully get out of the way of your vehicle. The use of a vehicle as a weapon is an inherently dangerous act.

The only appropriate penalty is a significant period of imprisonment. Your behaviour must be condemned, and the authority of the police vindicated.

I make the following orders. You are convicted on each count to which you have pleaded guilty. I impose one sentence. You are sentenced to imprisonment for three years, commencing 6 January 2023. I order that you not be eligible for parole until you have served 20 months of that sentence, which is the minimum term I consider you should serve for these crimes.