

Sheldon Wayne Butler has pleaded guilty to one count of assault contrary to the *Criminal Code* and summary offences relating to the same incident dealt with pursuant to s 385A of the *Criminal Code*: one charge of assault, two charges of breach of Police Family Violence Order, two charges of breach of bail conditions, two offences of assault a police officer, and one charge of resist a police officer. He is being dealt with pursuant to the same section with respect to subsequent but related offending, being three breaches of a Police Family Violence Order and one offence of breach of bail conditions.

On 13 June 2024, the defendant assaulted his partner on two occasions. At that time, they had been in a relationship for approximately ten months and had lived together on and off during that period. They were each subject to reciprocal Police Family Violence Orders which included conditions not to threaten, harass, abuse, or assault the other.

The defendant was also subject to bail conditions resulting from a family violence incident which occurred on 16 March 2024, during which he assaulted the same complainant by slapping and attempting to kick her, and in so doing breached a Police Family Violence Order. His bail included a condition that he comply with any order made against him under the Family Violence Act 2004 and that he not enter the complainant's address in Chigwell.

In the early morning of Tuesday 13 June 2024, the defendant and complainant had been drinking together at the house of a friend before returning to the complainant's house at approximately 9:00 am. They both went to the lounge room, and the complainant, seeing the accused was heavily intoxicated, told the defendant to go to bed because he wasn't well. The defendant became angry, took off his shoes, and threw them against the wall. The complainant yelled at the defendant to stop and get out.

He responded by grabbing the complainant's shirt collar and punching her to the face above her right eye. The complainant pushed the defendant away, causing him to fall into a shelf in the lounge room. She told him to get out of the house.

The complainant went to the bedroom of the house. The defendant followed her and got on top of her, where he grabbed her neck and squeezed. She fought to push him off and then went outside.

The complainant walked to the house of a friend, and then returned to the house in the company of two friends. When they returned, the defendant was blocking the entrance, banging on the door, and yelling incoherently.

The complainant and her two friends entered the house and gathered in the living room. Her female friend tried to remove the defendant from the house. The defendant was heightened and agitated. He made to swing at the friend and began to kick items in the house.

The two friends tried to restrain the defendant. He then punched himself to the face multiple times with enough force to cause swelling and bruising to his face. The friends put him into a headlock to try to calm him down.

The defendant went to the bedroom and threw items around. He used the electrical cord from an electric blanket to wrap around his neck, attempting to cut off his own breathing. Emergency services had been called by the complainant and one of her friends. Police arrived and spoke to the complainant, who was very distressed and whose voice sounded raspy.

Police officers entered the house and located the defendant on the floor of the bedroom with the cord wrapped around his neck affecting his ability to breathe. Police officers cut the cord with a knife. The defendant was in a heightened state. He was put into the recovery position and given time to regain this breath. He cried hysterically and yelled incoherently at police to leave him.

After a period, he got up and attempted to punch a male police officer, Constable Cuthbert, with his fists. He did not make contact with the officer and was restrained. He resisted police and the application of handcuffs. His behaviour was such that he was ultimately restrained by five officers and placed in handcuffs. He remained very heightened and yelled incoherently. He was taken from the house. As he was escorted down the stairs and out the front door, he headbutted the frame around the door. Once outside the house, he headbutted a male officer, Constable Miley.

He refused to get into the divisional van and was kicking at the officers who were trying to get him in. Once he was inside, he banged on the van continuously.

Later, he was interviewed, and said he did not recall strangling the complainant or striking her to her head. He did not admit to assaulting a police officer, saying he could not see himself doing that. He was bailed and subject to a comprehensive Family Violence Order prohibiting any contact with the complainant and he was not to enter within 50 metres of the address where the complainant was residing in Chigwell. A final order was made on 27 November 2024.

In March 2025, he was subject to that final Family Violence Order as well as bail conditions, including a condition that he comply with any order made against him under the Family Violence Act.

On 16 March 2025, it was the defendant's birthday, and he did not have someone to celebrate with. He communicated with the complainant, and she offered to pay for an Uber for him to her address. The defendant went to the complainant's address and entered through the front door. There was an argument during which the defendant requested a phone charger, and the complainant told him to leave.

The defendant became agitated and picked up the complainant's phone charger and went into the bedroom with it. The complainant telephoned her mother and told her the defendant was at the house. The defendant began to wrap the phone charger cord around his neck, pulling tightly. He was unable to breathe for a short period before letting go of the cord. He left the address.

Later that evening, he was arrested and participated in a video recorded interview. He said he could not recall what he was doing that day, and that he is unwell. As a consequence of his offending, he has been remanded in custody since then.

The defendant has a prior offence of disorderly conduct and destroy property which attracted a fine without conviction. Arising from a family violence incident on 16 March 2024, the defendant was sentenced by the Magistrates Court on 11 July 2024 to a Community Correction

Order for 12 months in relation to offences for breaching a Police Family Violence Order and common assault. The defendant has a prior conviction for behave in a violent manner committed on 18 August 2024 and three offences of breach of bail which attracted a fine.

Up until 1 April 2024, the defendant had spent 109 days in custody attributable to these matters. He has been remanded in custody since then, again on these matters. His sentence should be backdated to 28 November 2024. I note that his time in custody has been particularly onerous due to the number of lock-down days. I have been provided with a record of those days which is not disputed by the State. Looking at the period since Mr Butler was remanded in custody on 16 March, he had 15 days affected by lock-down in March, 18 days in April, and 4 days from the beginning of May up until 13 May.

I have the option of making an order pursuant to s 29A of the Family Violence Act. For an order to be made declaring a person to be a serial family violence perpetrator, there is a threshold requirement with respect to a mix of indictable and summary offences that the person must have committed at least three separate family violence offences. That requirement has been met in this case, noting the matters dealt with by the Magistrates Court on 11 July 2024, the matters before the Court today, and the breaches of Family Violence Order which occurred on 16 March 2025.

The offending on 13 June 2024 is regarded as a serious matter. It is noted that the defendant is not charged with strangulation, and it is not asserted that he affected the complainant's breath or blood flow by his act of grabbing and squeezing her neck, or that he intended to do so. The application of force was for a short period and the complainant did not sustain any physical injury. While his conduct fell short of the crime of strangulation, it presented the same kind of dangers and had the potential to affect her breath or blood flow. There was still the possibility of serious injury, even death.

I take into account that this assault would have been traumatising for the complainant and that the defendant's conduct involved another assault by punching her to the face, which must be regarded in a serious light. Adding to the traumatic nature of the incident was that the defendant's conduct generally was aggressive, highly agitated, and unpredictable, as demonstrated by his acts of self-harm.

On the day of the incident, the defendant found his work shift difficult because of teasing behaviour of colleagues, which affected his mental health. He bought a bottle of whiskey and drank most of that and took Valium. He was heavily intoxicated and has almost no recollection of the night and his behaviour. I note that alcohol abuse was also a factor in his offending in March of this year. His intoxication is not mitigatory and provides no excuse at all for his conduct.

He pleaded guilty at an early stage, noting there was some delay in disclosure and the timing of when the assault charge was formulated in its present terms. The proposed pleas of guilty were communicated at an early stage and have saved the complainant the stress associated with giving evidence. His pleas reflect that he has taken responsibility for his behaviour. I note that he is very sorry for his violence. I have a Community Corrections report which describes the defendant as appearing genuine in his remorse for his abusive behaviours, and he agreed his behaviour was unacceptable and dangerous.

The defendant was 24 years of age at the time. He completed grade 12 and had a good work record up until June of last year. He is a valued employee at a local RSL club, however, a bail condition prevented him working there. He has a job available to him once released but is giving careful consideration to whether that is the most appropriate employment option for him given his alcohol problem and mental health issues.

He has mental health difficulties which include attention deficit hyperactivity disorder, anxiety, depression, and a borderline personality disorder. He has had periods of psychosis which have coincided with stressful periods of his life and drug use. He was receiving mental health treatment but not as consistently as was needed. He has been aware that he needs to do more to address that. He has re-engaged with his general practitioner and a psychiatrist for the purpose of a review of his medication and referrals for counselling.

He has a long history of misuse of illicit substances. His alcohol use has been a serious barrier to sound mental health, a factor in his offending, and a destructive factor in his personal relationships. Similarly, his past illicit drug use has been a very negative factor in terms of his mental health and behaviours. He is motivated to achieve long-term recovery.

Until his arrest in March of this year, the defendant was engaging positively with supervision by Community Corrections and with Holyoake to address his alcohol and drug abuse. He has indicated willingness to attend the Family Violence Offender Intervention Program. To his credit, while on remand he has applied to attend the Respectful Men program.

In sentencing Mr Butler, specific and general deterrence are relevant considerations. Noting his relatively young age, and pleas of guilty and remorse, rehabilitation is also a significant consideration. There is a good prospect that he now appreciates the responsibility he has to address the factors that have led to his violence and that the time he has spent in custody will be a strong deterrent.

In relation to the crime of assault and related offences arising from that crime, I record convictions, and I impose a global sentence of 14 months' imprisonment backdated to 28 November 2024. This is the first term of imprisonment you have received, actual or suspended. I will suspend the balance from today on strict conditions. These conditions are:

- You must not commit any offences that could attract a sentence of imprisonment for a period of 18 months from today.
- You must complete 98 hours of community service within that period.
- You must comply with all of the conditions of a Community Correction Order that I now impose.

I impose a Community Correction Order for 18 months from today. You are subject to the statutory core conditions of that order. You must comply with all the reasonable directions of a probation officer.

Further, you must, during the operational period of 18 months, submit to the supervision of a probation officer as required. You must undergo assessment and treatment for drug dependency as directed by a probation officer. You must undergo assessment and treatment for alcohol dependency as directed by a probation officer and must submit to testing for alcohol use as directed by a probation officer.

You must also submit to medical, psychological, or psychiatric assessment or treatment as directed by a probation officer. If directed by a probation officer, you must attend, participate in, and complete the Family Violence Offender Intervention Program as directed.

In relation to the two breaches of Police Family Violence Order and two breaches of bail conditions, I record convictions, and I impose a sentence of a Community Correction Order in exactly the same terms.

In relation to the order sought declaring the defendant to be a serial family violence perpetrator pursuant to s 29A of the *Family Violence Act*, a requirement is that I must be of the opinion that the declaration is warranted. I am not of that opinion. I am conscious that, according to the report from Community Corrections, he is currently assessed as being at a high risk of committing future family violence. Relevantly, the risk factors are to be addressed in the orders made today. I take into account that the defendant meets, without exceeding, the threshold requirement of three incidents and that the most recent did not involve any violence towards the complainant, and the presence of rehabilitation factors generally. The term of imprisonment is a grave outcome clearly sending a strong message to the defendant, and I will give him the opportunity to demonstrate he does not need another message, and he can learn from the sentence imposed today.

I direct that pursuant to s 13A of the *Family Violence Act*, the following offences be recorded as family violence offences: the count of assault on indictment; charges 1, 2, and 9 on complaint number 6139/24; and charges 1, 2, and 3 on complaint number 2726/25.