

Mr Anderson, a jury has found you guilty of one count of persistent family violence. Ultimately, the determination of the factual basis of sentence is a matter for me, however there are several necessary implications that flow from the jury's verdict.

Firstly, the jury could only have returned a verdict of guilty if satisfied that your relationship with the complainant constituted a significant relationship. There was not any serious challenge to this issue at trial. The evidence established you and the complainant met in mid-2020 and within a couple of months of meeting had commenced a relationship. The relationship continued until November 2021. The relationship developed to the point where you lived together, shared responsibility for the care of the children each of you had to previous relationships and became engaged. The evidence established the relationship was an intense and passionate one, initially happy but came to be characterised by your jealousy and need for control.

The jury clearly accepted the accuracy and honesty of the complainant's account, and I also accept her account. She gave compelling evidence that during the life of the relationship, you perpetrated a course of serious family violence upon her. The violence seems to have had its origin in your unfounded paranoia concerning the complainant's fidelity and your expectation that she demonstrate "loyalty" to you. Whilst the complainant described many happy moments in the relationship, as time went on your jealousy and suspicions became more pronounced, and despite the complainant constantly reassuring you and allowing you to have access to items like her phone so you could check her communications, your behaviour worsened and became abusive and controlling.

During the course of the relationship, you engaged in a course of conduct that involved threatening her, including threats to shoot her and her family; you would damage her property, including phones and a work computer; on occasion, you would restrict her use of her phone and access to social media by doing things like changing her passwords. You would ring her incessantly and bombard her with aggressive text messages, demanding to know why she was not answering the phone and threatening that you would come to wherever she was if she did not respond to you immediately. You would also make a number of implied threats, often telling her that if she did something wrong, she should be "concerned", but if she behaved "properly", there would be nothing to worry about.

During the trial, there was a bundle of text messages which had been exchanged between you and her tendered. There was also evidence that a lot of your communications had occurred via Snapchat, and phone calls. The content of those communications were not before the Court. But in respect to the messages that were available, a constant theme was you accusing her of being unfaithful and questioning her loyalty to you. Such was your paranoia, that at times you directed the complainant to Facetime you and then stand at a particular spot in the house, holding her finger to her nose, so you could satisfy yourself you were viewing the complainant in "real time". The messages also demonstrated that you would bombard the complainant with phone calls and send abusive and threatening messages if she did not answer. The tenor of those messages was that you had an expectation that the complainant would comply with your demands as and when you wanted her to, irrespective of what she may be doing at that time. Some of this behaviour was the subject of an unlawful family violence offence of emotional

abuse and intimidation, which was one of the identified occasions relied upon by the State in proving the persistent family violence charge. Having seen the messages, I am satisfied this behaviour occurred and such was the intensity of it, I am also satisfied that it was directed at controlling and dominating her and caused her to feel scared, intimidated and overwhelmed. It is through this prism that the other individual acts of violence must be assessed. Your behaviour had a cumulative effect upon the complainant, with each act of violent or threatening behaviour exacerbating the impact of earlier behaviour and reinforcing a pattern of emotional and physical cruelty.

In addition to the behaviour just described, there were seven other separate occasions of family violence relied upon by the State. I am satisfied they were all perpetrated by you in the manner described by the complainant. These, however, were not the only occasions of violence which occurred within the relationship. There was evidence of other generalised violence which caused injury to the complainant. I will sentence on the basis that the identified occasions were not isolated occurrences. The first of the specified occasions occurred around Christmas time 2020. You and the complainant were at your residence. The two of you were sitting in the kitchen, consuming alcohol. An argument developed. Whilst the complainant could not be clear as to the subject of the argument, it is likely to be related to issues of her loyalty towards you as that seemed to be the constant thrust of arguments between the two of you. You became angry and you pushed the complainant off the bar stool. She fell heavily onto the stool. She was winded and injured her back. She had bruising on her back. In the days that followed, she noticed blood in her urine. She subsequently spoke to her mother, and said she had fallen, although did not disclose your violence to her mother.

Shortly after this occasion, a second assault occurred. You pushed the complainant into the kitchen bench, which hurt her back. You then slapped her to the face. She walked away from you and as she did, you kicked her in the back of the leg, causing her to fall to the ground. She was left with a black eye and a bruised jaw.

The third occasion of assault occurred at the end of February 2021. You and the complainant had been at a family event at the complainant's parents' home. The intention was that you were to stay there for the evening, but there was an argument, and you decided that you wanted to go home. The complainant drove you and your daughter to your house in Burnie. On the drive, the argument continued. You were accusing the complainant of cheating on you. The complainant tried to alleviate your concerns and reassure you that there was nothing to worry about. It did not resolve the issue and as she was driving the vehicle into your street, you reached over and punched her to the left side of her face. This was obviously a dangerous thing to do and speaks to the intensity of your jealous reactions at times. She was driving and your daughter was in the back seat. Not only did you demonstrate no regard for the complainant's well-being, but you demonstrated scant regard for your daughter's welfare, given your willingness to expose her to the risk that the complainant might crash the vehicle, given you had just punched her in the head.

The fourth assault occurred around Easter time 2021. You were in an angry mood. You accused the complainant of cheating on you and suggested that she had been talking about you to other people. Again, despite her endeavouring to calm and appease you, you continued to behave in a volatile fashion. You punched some holes in the wall. The complainant was laying on the bed. You got on top of her and placed your hands underneath her jaw and across her throat. You had hold of her lower jaw and were pressing onto her throat. You used your hand to move her head from side to side. You squeezed her throat making it hard for her to breathe.

The complainant described the pressure as being such that she "could not breathe properly and could not get up but could still talk sometimes". She kept asking you to get off. Eventually, the complainant noticed your young daughter at the door of the bedroom and pleaded with you to stop. You did.

The fifth and sixth assaults occurred in late August 2021. You and the complainant were at the house and your daughter and the complainant's two sons were also there. The three children were in bed. You and the complainant were in your bedroom. You again started accusing her of being unfaithful. The complainant was lying on the bed, you got on top of her and placed two hands around her neck and began to choke her. She described it as being more forceful than the previous occasion. She said she went "black"; she could still hear you yelling at her but could not see anything. She described difficulties in breathing. Eventually, you released the pressure and got off her. As you did, you punched her to the side of her head. You had large rings on when you did this, and she sustained a small cut to her head.

Following this incident, the complainant went and woke her two sons and told them to go to the car. She left the house and drove her sons to a friend's place in Wynyard. The complainant stayed away and whilst she was gone, you telephoned her on several occasions. After some time, the complainant realised she was going to need to return to the home because her work computer and the children's school bags, uniforms and homework were all at your house. She returned to the house to obtain those items. Upon her return, you met her and took her phone and keys from her. You told her that she must be silly to think that you would let her leave. She described your demeanour as being "wild...almost like he was just wild like an animal".

You threatened her. You said you were going to string her up in the room downstairs. You dragged her to an area near the top of the stairs. She described you grabbing at her body and hair and pulling her towards the stairs. She tried to fight you off. She was frightened. The stairs comprised two flights. The first flight only had a few stairs before a landing, with the second flight lengthier. You pushed her down the first flight of stairs, but she remained on her feet. Concerned that you would also push her down the second flight of stairs, she grabbed hold of you. As you pushed her, she fell backwards, falling headfirst, but facing towards you. Because she still had hold of you, you also fell down the stairs. When you were both at the bottom of the stairs, the complainant realised that you were not moving. You had hurt your ankle. She saw it as her opportunity to flee. She ran from the house, without collecting her shoes, phone or keys, to a neighbouring residence and sought their assistance. When she arrived, she was distressed, shaking and crying. The neighbours took her to a friend's place.

After the stair incident, the complainant moved out of your home and returned to live with her parents. She continued to communicate with you, however, and would spend time with you. She maintained a sexual relationship with you but had the protection of living separately to you.

In November 2021, whilst she was living with her parents, you attended the residence to collect a motor bike that belonged to your daughter. Upon arrival, you told the complainant that you knew she had not stayed at the property the evening before as you had been watching the house. You also checked the bonnet of the complainant's car, presumably to see if it was warm and if she had driven it recently. You then went into the house to see who was at home. The complainant was there with her two sons. You threatened her by saying that if she was lying about her whereabouts the previous evening, you would shoot her, then shoot her kids and her

family. Your behaviour on this day was a further example of the domineering, threatening and controlling behaviour that had typified the relationship.

You and the complainant walked to the shed to retrieve the motor bike. On the way there, you told her that you wanted to have sex with her. She said no, she did not wish to do so as she was menstruating. You told her that you did not believe her but believed she had been with somebody else and that was why she was reluctant to have sexual intercourse with you. You then forced your hand down her pants and into her underwear. You penetrated her vagina with your finger. When you pulled your finger out, you said "there's nothing there to prove it." She removed her tampon and threw it at you. This behaviour constitutes the crime of rape. I am satisfied, based on the evidence of the complainant, that there was penetration.

Following this incident, the complainant received further threatening phone calls and messages from you. It became too much. She told others what had been occurring and reported the matter to police.

Your behaviour towards the complainant was simply awful. Not only did you cause her physical harm, but you invaded her bodily integrity, and you treated her in a degrading and humiliating manner. You assaulted her, physically and sexually, and sought to control and dominate her. Your violence was, at times, extreme. The acts of strangulation to the point of her experiencing breathing difficulties and feeling that she was "blacking out", and the incident where you pushed her down the stairs, are particularly serious forms of violence. After these incidents the complainant was left badly bruised and sore, but the acts could easily have had far worse consequences, potentially even death. Moreover, your overall pattern of demanding her obedience and loyalty by the use of threatened and actual violence is a matter of particular concern. You obviously had some level of insecurity which led to you unjustifiably accusing her of infidelity and unfaithfulness. Her constant attempts to appease you must have been emotionally exhausting.

The complainant has been deeply and perhaps permanently affected by your behaviour. I have received a victim impact statement from her. She eloquently describes not only the pain and suffering from the physical injuries, but the significant toll your emotional and mental abuse had upon her. Her sleep has been disturbed. She experiences panic attacks. She no longer trusts others. Her self-esteem has been badly affected and she feels a great sense of guilt at exposing her children to your violence. She found the experience of having to give evidence in Court traumatising.

It is an aggravating feature of your crime that some of the violence occurred whilst young children were present. Whilst there is no evidence that any of the children saw any of the violence, it is a distinct possibility that they heard some of it. It speaks to the intensity of your anger and jealousy, that you perpetrated violence when the children were in the home or car, and were willing to take the chance that they may awaken and be exposed to it. It is well understood that the exposure of children to family violence has a significantly deleterious impact upon their development and psychological well being. It is of note, that on one occasion the complainant was forced to remove her children from the home in the middle of the night because of your violence.

You are 38 years of age. You have relevant prior convictions and, in fact, were subject to a suspended period of imprisonment when part of this offending occurred. The State have made an application pursuant to s 27 of the *Sentencing Act* for that period of suspended imprisonment

to be activated. On 29 July 2021, you were sentenced to eight months' imprisonment, the execution of which was wholly suspended in respect to two counts of Criminal Code assault. The crimes were committed on 20 January 2018, when you were aged 30. The sentencing judge described them as "a vigilante exercise designed to scare the complainant who you believed had about a week earlier committed an aggravated burglary of the house of an 87-year-old female friend who lived alone and was in the house during the burglary". The sentencing judge described it as a "misguided attempt to scare him and by doing so, to warn him off and protect her from further intrusion". You and your co-accused made arrangements for the complainant to meet you at a remote location. You had possession of a loaded shotgun and cable ties. You gave the cable ties to your associate and instructed him to use them to tie the complainant's ankles. The complainant resisted. You attempted to strike him to the face with the firearm, but the complainant was able to push you away and run free. As he was doing so, you fired the shotgun. The shotgun was not fired directly at the complainant, rather, the purpose of firing the shotgun was to increase the sense of threat.

The unlawful family violence offences that occurred after 29 July 2021, so the fifth and sixth assault which occurred at the end of August 2021, and the digital rape of the complainant, which occurred in November 2021, together with aspects of the emotional abuse and intimidation charge, all breach the suspended sentence. In my assessment, there is a vast difference in the offending which saw the suspended sentence imposed, and the matters for which I am sentencing you. The context, nature and catalysts for the crimes are markedly different. I consider it unjust to activate the suspended sentence and I will not be doing so.

Other than the matter to which I have just referred, you also have prior convictions for offences contrary to the *Firearms Act*, the *Misuse of Drugs Act*, and some driving offences.

You have a strong industrial history. You have spent considerable time working in the mining industry. You have a daughter who has been referred to in these comments. Before your remand, you maintained regular contact with her and took on an active parenting role. I received a letter from your ex-partner, the mother of your child. She describes you as being a committed and loving father. She also notes that both during and after her relationship with you, you have always treated her with decency and respect. Sadly, the same cannot be said about your behaviour towards the complainant.

I take into account the delay that was associated with this matter coming on for trial. You were charged in November 2021. You were committed to this Court in July 2022. You have been awaiting allocation of a trial date since. Whilst awaiting trial, you have been subject to strict bail conditions, including a requirement that you wear an electronic monitoring device for a period of about 32 months. This impacted on your employment and curtailed your movements generally.

The family violence perpetrated by you was serious and sustained, and it must be condemned and strongly punished. You manifested a propensity to use actual and threatened violence to arrogantly control and dominate the complainant and demand her loyalty. Family violence is a matter of great concern to not only the Court, but the community at large. Its insidious nature and controlling effect means that it often remains hidden within the relationship. That is exactly what occurred here. The complainant sought to keep your violence secret to protect you, and consequently endured more suffering and violence. General deterrence and denunciation are primary sentencing considerations.

There is little to be said in mitigation. You did not desist with this conduct. You were still sending threatening communications after the final act of rape. It only stopped when the complainant summonsed the strength to report the matter to police. You have not demonstrated any remorse or insight, and you are not entitled to the benefit of a plea of guilty. The only possible sentence is a significant term of imprisonment.

I make the following orders. You are convicted of the crime of persistent family violence. You are sentenced to a term of imprisonment five years and six months, commencing 1 April 2025. You are not eligible for parole until you have served one-half of that period of imprisonment. Pursuant to s 13A of the *Family Violence Act*, I direct that the crime of persistent family violence be recorded on your criminal record as a family violence offence.

Pursuant to s 36 of the *Family Violence Act*, I make a family violence order in favour of **[name suppressed]** in terms of the current Interim Family Violence Order, dated 11 October 2024, save that order 13 and 14 will not be made. The order will remain in force until it is varied or revoked by a court of competent jurisdiction. I decline to make an order under the *Community Protection (Offender Reporting) Act 2005*. I do not consider that you will pose any real risk of future offending such as to warrant registration and I decline to make an order under that Act.