

Mr Bennett, you have pleaded guilty to one count of aggravated assault and one count of recklessly discharging a firearm. You have also pleaded guilty to a number of related summary offences, in particular possessing a firearm without a licence, possessing ammunition without a licence, breaching a family violence order by possession of the firearm, and breaching bail conditions by the failing to comply with a residential condition.

The crimes and offences were committed on 7 March 2023. You were residing in a house which was not the one you had been bailed to, with your daughter and her 18-month-old child. The complainant was a man who had been in a relationship with your daughter. There were problems between them, and you believed that he had been harassing her. You told police that there were also difficulties between the complainant and you including that he had stolen property belonging to you. He arrived at the house in a car which contained two other men. He was aware that he was not welcome there. When your daughter saw him at the front door, she became upset and told him to leave but he refused to do so. She called out for your assistance. You were in the lounge room. Upon hearing her, you grabbed a firearm, which seems to have been close by in the lounge room, and immediately went with it to the front door. The firearm was already loaded with a shot gun cartridge. You pointed it at the complainant and said words to the effect of “*I’ll put a fucking bullet in your fucking head alright*”. The complainant fled but yelled abuse at you from a distance. You then discharged the firearm once and walked back into the house. In your interview with police, you said that you discharged the firearm to scare the complainant away and that it was aimed in the air. However, the prosecution points out that it was discharged outside the house in a residential area. When police attended the residence ten days later, you told them where the firearm was. They took possession of it. One unfired shot gun cartridge was still loaded in the weapon.

The breach of the family violence order arises from your possession of the firearm contrary to a condition which required you to surrender any firearm in your possession to the police. While this is a serious breach of the order, as I understand it, it is not suggested that your possession of the firearm was directly related to any issue between you and the person protected by the order.

You are 50 years of age. You have two children. Tragically, your son died earlier this year as a result of a motorcycle accident. Your father passed away 2 months ago. You have a lengthy and concerning criminal history. This includes a number of offences of violence, and others involving breaches of court orders and legal obligations including bail orders and restraint orders. In 1998, you were sentenced to imprisonment for various offences which included aggravated assault and Criminal Code assault. In 2012, you were sentenced for offences which included common assault and breaching a family violence order. In 2015, you received a sentence of three years imprisonment for committing an unlawful act intended to cause bodily harm. Also in that year, you were dealt with by the Magistrates Court for offences which included possessing a loaded firearm in a vehicle, possessing ammunition and a firearm in breach of a licence. In 2016, you were sentenced to imprisonment for the crime of wounding. On 8 September 2023, you were sentenced to imprisonment for numerous summary offences, including drink driving and drug offences. One of those offences was threatening a police officer. You were released when granted bail after the completion of that sentence in November 2023, but were remanded in custody earlier this year in respect of new offending which has not yet been dealt with. It is an agreed

position that as at today, you have served 181 days in custody which is not allocated to a past sentence.

I regard all of this offending as serious. It is a matter of concern that you unlawfully had a loaded firearm in your possession. It is of even greater concern that you were prepared to use the firearm in a threatening way. You clearly have a propensity for violence and for the unlawful use and possession of firearms, and these propensities manifested in this incident. The discharge of the firearm in a residential area in the circumstances is unacceptable. Such conduct involving firearms undermines the peace and security of our community and will not be tolerated by the courts. Further, although I accept that you believed that the complainant posed a threat to you and your daughter, I do not regard that belief as mitigating your culpability to any significant extent. The production and use of a firearm in such circumstances creates immediate risk to all concerned and has the potential to escalate the conflict in a way which can lead to further violence. A sentence emphasising general deterrence and denunciation is called for. Further, in your case, I take the view that a sentence which deters you from committing such offences and from disregarding court orders and the law generally is necessary. I take your plea of guilty into account because of its utilitarian benefit but I do not believe that you have demonstrated any significant remorse or insight.

The orders I make are as follows:

- a You are convicted of the crimes and the offences to which you have pleaded guilty;
- b You are sentenced to a global term of 18 months imprisonment, which will be backdated to 25 December 2024, to reflect the unallocated time already spent by you in custody. You are not eligible for parole until you have served one half of that sentence.
- c Pursuant to s 13A of the *Family Violence Act*, I direct that count five on complaint 2741/23 be recorded on your criminal record as a family violence offence.
- d I am satisfied that the firearm which was seized by Tasmania Police is tainted property within the meaning of the *Crime (Confiscation of Profits) Act 1993*. Pursuant to s 16 of that Act, I order that the firearm be forfeited to the State of Tasmania. I specify that the value of the property is negligible.