

Mr Carr, you have pleaded guilty to one count of causing grievous bodily harm contrary to s 172 of the *Criminal Code*. You have also pleaded guilty to two counts of breaching a police family violence order. Further, the crime and these offences were committed in breach of a suspended sentence of four months' imprisonment imposed by the Magistrates Court on 12 March 2025. The prosecution has applied to activate this sentence.

The relevant offending was committed on 14 September 2025. According to your counsel, the background was that you and the complainant had had a prior falling out. The complainant had made some veiled threats towards your partner as a consequence of this. A day or two before 14 September, the complainant had made it clear to you that he knew where your partner lived and could go there anytime. Understandably, you took this as a threat to harm her. On the day in question, you were aware that the complainant and another man were to have a regular drinking session. You were apprehensive that the complainant would act on his threat particularly if he was affected by alcohol and accordingly you went to your ex-partner's house for the purpose of intercepting the complainant if he did so. You hid yourself at the house without the knowledge of your partner. You were in breach of the police family violence order.

As you had anticipated, the complainant and his companion arrived at the house. The complainant was intoxicated. You confronted him and asked him to leave. The complainant responded by telling you that he had a firearm in the car. He started to move towards his vehicle. You believed that he was going to the car to retrieve the firearm and you attacked him to stop him doing so. You punched him, knocking him to the ground and while he was on the ground, punched him approximately 20 times to his upper body and head. You were wearing a ring on one of your hands as you did so. He was assisted by his companion and the two men left the property.

The complainant was subsequently transported by ambulance to hospital. He suffered a number of injuries to his eye and face as a result of your attack. The injuries include swelling and bruising around the eye, an eye globe rupture, a retinal detachment and loss of vision. He also suffered a fractured nose and numerous abrasions and extensive bruising to his face. He underwent surgery to repair the eye globe but has not recovered the vision in his right eye.

You are to be sentenced on the basis that you acted in defence of yourself and your partner but that the force used by you exceeded what was reasonable in the circumstances. It was obviously a brutal attack and caused significant and perhaps permanent injury. You repeatedly punched the complainant to the head while he was on the ground. However, it is accepted that you did not intend to cause grievous bodily harm but rather are liable for the crime on the basis of subjective recklessness.

You are 40 years of age. Until you were arrested in respect of this matter, you were in full-time employment. You are held in high regard by your employer. You have a significant criminal history which includes numerous serious driving offences and breaches of family violence orders. You have been sentenced to imprisonment on a number of occasions. You have one prior conviction for common assault in 2007 and three for assaulting police. Apart from those, you have no history of committing crimes of violence.

The brutality of the assault and the extent of the injuries suffered by the complainant make this a crime of considerable objective seriousness. I also regard the breaches of the police family violence order as a serious matter. However, your moral culpability is mitigated to a significant extent by the fact that you were attempting in a misguided way to protect your partner, and in respect of the grievous bodily harm to prevent the complainant from retrieving the firearm. Further, you are entitled to the benefit of an early plea of guilty. I note that the plea was entered in the Magistrates Court. In respect of the suspended sentence, I am required to activate the sentence unless I am of the opinion that it would be unjust to do so. It has not been submitted on your behalf that it would be unjust to activate the sentence and given the serious nature of the crime, this is appropriate. That sentence will be activated.

The orders I make are as follows:

- a You are convicted of the crime and the offences to which you have pleaded guilty;
- b I activate the suspended sentence of four months imprisonment imposed upon you by the Magistrates Court on 12 March 2025. The sentence will be backdated to be served by you from the date that you were taken into custody which is 19 September 2025. You are not eligible for parole until you have served one half of that sentence.
- c For the crime of grievous bodily harm and the offences of breaching a police family violence order, I impose a global sentence of imprisonment for a term of 16 months. You are not eligible for parole until you have served one half of that sentence.
- d The breaches of the police family violence order will be noted on your criminal record as family violence offences pursuant to s 13A of the *Family Violence Act*.
- e For the purposes of S 92A (3) of the *Sentencing Act*, I specify that:
 - i the total term of imprisonment which you are liable to serve in respect of all of the above sentences is 20 months commencing on 19 September 2025.
 - ii The total period that you must serve before you become eligible for parole is the aggregate of the non-parole periods relating to the said sentences, which is a total period of 10 months, commencing on 19 September 2025.