

Robert Perri, you pleaded guilty to unlawfully injuring property and were found guilty by a jury of one count of assault. You were indicted on two counts of strangulation and two counts of assault. You were acquitted of all of those crimes but found guilty of assault as an alternative to one of the counts of strangulation. It is my duty to determine the factual basis on which you are sentenced but my findings must be consistent with the verdicts. Facts adverse to you must be proved by the prosecution to my satisfaction beyond reasonable doubt.

You were in a relationship with the complainant for about 11 years. You had three children together. During 2022 the relationship began to fail. In October of that year a police family violence order was made after allegations that you had been violent and threatening towards the complainant in August and again in October. One of the conditions of the order was that you not go to what had been the family home. Despite the order and continuing uncertainty about whether your relationship would continue, the complainant permitted you to return to the home in late December 2022 in an attempted reconciliation. You came and went from the house during January but with decreasing frequency. I find that by mid-February 2023 you were again mostly living elsewhere.

The events which were the subject of the indictment occurred in the complainant's bedroom at the home late in the evening on 24 March 2023. The children were present but were in bed in their own rooms. It follows from the verdicts that the jury was not satisfied beyond reasonable doubt of the truth of the complainant's account of these events in many respects. Consistency with the verdicts requires that you not be sentenced for the acts which the jury found not to have been proved. Subject to that qualification I do not share the jury's doubt about the truthfulness and reliability of the complainant's evidence. Some of the evidence about the lead up to the assault was not in dispute. You and the complainant exchanged phone calls and text messages during that day. In the course of those exchanges you accused her, I am satisfied falsely, of having an affair with her boss. You called her vile names including that she was a disgusting whore. She told you that she regarded your relationship as at an end. That was very likely a result of what had occurred over a considerable period, not just what was said on that day, but your exchange brought matters to a head. On that evening, after telling you that, she stopped answering your repeated phone calls.

As a result, you decided to go to the house. Your account of that evening was given in a police interview and in evidence. You claimed that you went to the house mainly to see the children. I regard that as an obvious lie. You let yourself into the house unannounced and your purpose was to confront the complainant about your earlier exchange after she stopped responding to you. You walked into her bedroom and, in an angry, abusive and aggressive manner, repeatedly asked her about the rumours you had heard that something was going on between her and her boss. You admitted grabbing her phone. The only plausible explanation for that act was so that you could search for evidence of what you had accused her of. In the course of taking the phone you damaged the cable of the charger which was attached to it. That is the basis of the damage to property charge. You told the police that you grabbed her arm and pushed her onto the bed because you thought she was going to swing at you. I find that account to be another obvious lie. I regard the complainant's description of what then happened as compelling and your denials completely unconvincing. She presented to me as calm, rational and persuasive. Her account was consistent with the objective circumstances surrounding your presence at the home, my conclusion about the reason for it, and the complaints she made very soon afterwards in a 000

call, to a friend she phoned and to the police when they arrived. To my mind the evidence of her complaints strongly supported her credibility and was forceful evidence of your guilt. After you left the house you made further repeated attempts to phone her and sent her a text message calling her a “fuckin dirty fuckin whore”, conduct which was entirely consistent with the complainant’s description of your behaviour throughout these events.

I find that after entering the bedroom, after grabbing her phone, you pushed her on to the bed, straddled her and grabbed her around her throat. As the jury was directed, it could not have found you guilty of assault as it was particularised in the indictment unless satisfied beyond reasonable doubt that the grabbing around the throat occurred. I am also satisfied beyond reasonable doubt that, as it applied to that count on the indictment, those acts did occur. There could be no doubt that it was the type of force which by its nature had the capacity to interfere with the complainant’s breathing and the flow of blood to and from her head. I accept her evidence that as a result of the force you applied to her neck with your hand she struggled to breathe. You were acquitted of strangulation. Consistency with that verdict thus leads me to impose sentence on the basis that you did not intend or realise that the force you applied would or may interfere with her breathing or the flow of blood to or from her head. That may well have been because your anger clouded your judgment and reason. However, any rational and reasonable person would have realised that the type of force you applied was very likely to have that effect. I am also satisfied that the events in the bedroom caused the children to be disturbed and become conscious of at least some distressing conflict between you and the complainant in the bedroom.

The complainant gave evidence that after grabbing her throat you forcefully put the doona over her mouth and nose and struck her twice more before you left the house. You were acquitted of those charges so you must be sentenced on the basis that those acts did not occur.

You were 32 when these crimes were committed. You are now aged 36. At the time that these crimes were committed your record was principally for driving offences and not for violence or other family violence offences. However you demonstrated no contrition or remorse because between then and the end of 2024 you committed repeated and persistent breaches of the family violence orders and bail conditions put in place to protect the complainant, by contacting her, going to or too close to her house, damaging or stealing her property and vile and demeaning abuse. On 22 May 2023 you were fined by a magistrate. That did not stop you. On 2 May 2024 you were sentenced to imprisonment for four months, two months of which was suspended. You were also made subject to a community correction order for 18 months. Still you persisted. You breached the conditions of the suspended sentence by continuing to commit breaches of the orders until the end of 2024. On 11 September 2025 a magistrate extended the period for which the two month term was suspended by 12 months. The suspended term will thus remain in place until 12 June 2026. You were made subject to a home detention order for four months from 11 September 2025 and an 18 month community correction order from the same date. You were declared a serial family violence offender. There is already a family violence order in place to protect the complainant for three years from 4 March 2024 with a condition requiring electronic monitoring. You have and will remain subject to the inconvenience arising from that condition but I give it little weight in sentencing. All of the conduct to which I have referred occurred after the crimes for which you are to now be sentenced. They are not prior convictions for sentencing purposes. They are relevant only to indicate your distinct lack of remorse and give some guide to whether you continue to pose a risk to the complainant and the requirement for personal deterrence. You are not be punished again for the subsequent offences. There have been some signs of reform. There has been no further offending since December 2024. It is to be hoped that the sentences to which you have been made subject and the requirement for electronic

monitoring have made clear to you the likely consequences of further breach. You are in a new relationship. You have held full time employment as a truck driver for more than a year. You have addressed the underlying mental health conditions and abuse of alcohol which you were experiencing at the time by counselling and you have undergone the family violence offender intervention program.

You are not entitled to the mitigation which a plea of guilty would have attracted, but you were acquitted of most of the charged crimes. Grabbing around the throat is a particularly dangerous form of assault because of its potential consequences. It is also indicative of an intention to exhibit dominance and control. Although you did not intend strangulation in the relevant sense, the risk was so obvious that it should have been apparent, and the degree of your criminal and moral culpability is hardly any less. The damage to the phone charger cable is of little moment, except that it occurred as a result of your attempt to take the complainant's phone, another exhibition of controlling behaviour. It is an aggravating factor that the crimes were committed in breach of the police family violence order. I do not believe your evidence that the complainant told you that the order was no longer in place. I accept that there had been occasions after the order was made on which the complainant had invited or permitted you to be present. Without excusing it, it is not difficult to understand why that was so. She may well have wished to reconcile and preserve the relationship for the sake of the children, for affection and for emotional and economic security. However there is no doubt that you were not invited to the home on this night and you acted in response to advice that she regarded the relationship as at an end. It was your obligation to comply with the terms of the order. Instead you assaulted her in what should have been her place of safety. The assault was committed in the presence of your children, which is of course makes that crime more serious. The prevalence and devastating impact on victims and children of violence perpetrated against women within relationships is well recognised across Australia by criminal courts and the community. Family violence is an insidious, prevalent and serious social problem. The complainant suffered no serious physical injury but the serious psychological and emotional impact such crimes can have emerge clearly from her victim impact statement. No doubt your subsequent conduct added to her distress but she specifically referred to these events as having a lasting impact. Punishment and deterrence are powerful sentencing factors. In other words, the sentence must make you and others understand the likely consequences so as to discourage such conduct. Although there were no prior convictions for assault it was not to be regarded as an isolated occurrence which was out of character. You have spent 28 days in custody which I will take into account.

A term of imprisonment is the only appropriate sentence, but because of the matters relevant to your rehabilitation to which I have referred I will permit an opportunity for you to avoid having to serve any more time in custody provided you do not commit any further offences.

You are convicted on count 1 on the indictment, unlawfully damaging property, and on count 2 you are convicted of the alternative charge of assault. In accordance with the *Family Violence Act*, s 13A, I direct that both offences be recorded on your criminal record as a family violence offences. I impose one sentence. You are sentenced to imprisonment for nine months from 21 January 2026, the balance of which is suspended for 18 months from today. It is a condition of that order that while it is in place you commit no offence punishable by imprisonment. If you breach that order, you will serve the suspended term unless that is unjust.