

Mr Cleaver, you have pleaded guilty to one count each of the crimes of strangulation, assault and unlawfully injuring property.

The crimes were committed by you against a woman with whom you have been in a relationship for a number of years. The relationship had, until 2024, been a friendship, involving a casual sexual relationship. This was the case at the time that you committed the crime of strangulation. You committed that crime on 20 October 2023. You had drinking together and I infer that both were obviously affected by alcohol. You became involved in a verbal argument which turned into a mutual physical altercation. During that physical exchange, you put your hands around the complainant's throat and squeezed until she became unconscious. When she regained consciousness, she realised that she had involuntarily urinated. It is common ground that you may have felt threatened by the complainant during the scuffle, but the act of strangulation was not in lawful self-defence because it involved force which was greater than that reasonably necessary to defend yourself.

The assault was committed on 12 July 2024. By this time, you and complainant had entered into a significant relationship, although you did not live together. Once again, the crime occurred while you were both drinking and after you had started to argue. During the course of the physical exchange, you grabbed the complainant by the back of the neck and pushed her onto a couch and held her there briefly, applying force to the area in between her shoulders. This caused swelling at the base of her neck. You left the residence but returned shortly after to collect your belongings and alcohol. When the complainant refused to open the door, you yelled at her, threatening to punch her head in, and then used your hands to rip off the security screen door from its hinges.

Apart from swelling already referred to, the complainant has not suffered any other ongoing injury from either crime. She has not provided a victim impact statement. You and she are no longer in a significant relationship, but you maintain your friendship and are mutually supportive.

You are now 31 years of age. You have a significant criminal history, but it largely consists of traffic and some minor drug offences. The only prior offence of violence is a common assault committed by you in a family violence context in January 2020. In May 2022, you were fined for this offence. Your counsel tells me that you had a difficult childhood characterised by lack of parental care and volatility arising from the mental illness of your mother. You were eventually taken into foster care. You developed a serious problem with the abuse of alcohol, but in recent times, you have been trying to limit your use of that substance and attempt to rehabilitate yourself. You have a good industrial record. I have been provided with a number of character references, including one from your employer which speaks well of you and attests to your desire to better yourself.

These crimes involved serious and brutal acts of violence perpetrated against a woman with whom you are in a relationship. Although she contributed to the drunken arguments in which the crimes were committed, she was entitled to trust that she could argue with you without being seriously assaulted by you. The act of strangulation is particularly serious and dangerous. It is well-known that strangulation can have serious consequences, including death, and to be

strangled to the point where she lost consciousness is a matter of grave concern. The fact that you were affected by alcohol at the relevant time has no mitigatory effect. On the contrary, your intoxication would have limited and impaired your capacity to judge the degree of pressure being exerted by you on her neck and this makes your conduct even more dangerous. While it is fortunate that she does not seem to have suffered any lasting injury, the potential for serious injury was present.

In my view, the seriousness of the crimes warrants a significant sentence of imprisonment. There is a need to emphasise general deterrence, particularly in respect of the strangulation crime. However, in this case, I have determined that it is appropriate to suspend the sentence which I intend to impose. In coming to this conclusion, I have had regard to your pleas of guilty and my assessment that committing these crimes has caused you to reflect on your conduct and, in particular, the problematic nature of your drinking. I think that you would benefit from a term of community supervision and this, of course, can be made a condition of the suspended sentence. By such an order, I think there is a real prospect in this case that significant rehabilitation can be achieved, which will benefit not just for you, but also the whole community. I think immediate service of a term of imprisonment will be counter-productive to this aim.

Accordingly, the orders I make are as follows:

- 1 You are convicted of the crimes to which you have pleaded guilty;
- 2 You are sentenced to a global term of 15 months imprisonment, which will be wholly suspended for a period of 18 months on the following conditions:
 - a that you are not to commit another offence punishable by imprisonment during that period.
 - b that you will be subject to the supervision of a probation officer. You must comply with this condition for a period of 18 months. That period will commence from today. The Court notes that the conditions referred to in s 24(5B) of the *Sentencing Act* apply to this condition. These include that you must report to a probation officer within three clear days of today. In addition to the core conditions, the order shall also include the following special conditions:

(a) you must, during the operational period of the order,

- i attend educational and other programs as directed by the court or a probation officer;*
- ii submit to the supervision of a probation officer as required by the probation officer;*
- iii undergo assessment and treatment for drug dependency as directed by a probation officer;*
- iv submit to testing for alcohol use as directed by a probation officer;*
- v submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer;*

vi attend, participate in and complete the EQUIPS addiction program and/or the EQUIPS aggression program as directed

- 3 Pursuant to s 13A of the *Family Violence Act*, I direct that count 2 on the indictment be recorded on your criminal record as a family violence offence.
- 4 I make a compensation order in favour of Community Housing Ltd in a sum to be assessed and I adjourn assessment sine die.