

Mr Mitchell, you have pleaded guilty to one count of persistent family violence.

You committed the crime against your wife. You and she had been in a relationship for 28 years and have four children who are now adults. Between 15 December 2023 and 6 March 2024, you committed four unlawful family violence acts. They all occurred during arguments, which according to your counsel were closely linked to your mutual drug use, in particular that of the drug methylamphetamine. The first act consisted of you throwing a cigarette lighter at your wife. The lighter struck her in the eye and caused some bruising. The second occurred about a month later. You were again arguing and during the course of that argument, you grabbed her by the throat with your right hand, squeezed her throat and told her that it would be easy to kill her. This did not interfere with her breathing nor cause physical injury. The third act occurred a month after that. Again, during an argument, you held a steak knife to her throat and screamed abuse at her. You told her that you were going to kill her. A struggle developed between you during which the knife moved towards her cheek and scratched it. You held the knife in that position for several minutes. The fourth incident occurred at the end of the said period, on 6 March 2024. During the course of another argument, you pushed her causing her head to strike a bench. Again, she was not injured.

The prosecution alleges that the relevant unlawful family violence acts were not isolated events and that there was a pattern of violence. You do not dispute this, but your counsel links the violence to the arguments and the role that drugs played in the lives of both of you. It is put to me that the relationship at this time was characterised by constant arguments and mutual verbal abuse and threats. The drug addiction that you both had started when you were both very young, and continued for a substantial part of your marriage. You had both relapsed after a period of abstinence and the arguments and associated violence were invariably related to your mutual drug use. You permanently separated about three months after the last unlawful family violence act. You both accept that the marriage is now over. The complainant has declined to make a victim impact statement.

You are 49 years of age. You have a relatively lengthy criminal history but it is comprised almost exclusively of traffic offences and offences related to drugs. It is generally consistent with the history of your drug use as explained by your counsel. You do not have any prior convictions for any form of violence, including family violence. In February, you suffered significant injuries as a result of a collision between the bicycle you were riding and a motor vehicle. Clearly, this would make any time in custody more onerous than would otherwise be the case. A further matter in mitigation is that you have been subject to more serious charges for a considerable period of time. The matter was in the list before me for trial but the indictment was amended when this matter came before me for plea. This was as a result of negotiations, and the result has been that you have pleaded guilty to a charge which involves allegations which are considerably less serious than those originally made against you. The upshot of this is that you have entered a plea immediately upon the amendment of the indictment and it should therefore be regarded as an early plea. The plea clearly has considerable utilitarian value because a trial will not be necessary, and the complainant will be relieved from having to give evidence. Finally, you have spent three days in custody which has not been taken into account in any other respect.

Any form of family violence is a serious matter. The crime of persistent family violence has an added level of seriousness because it manifests repetitive acts of family violence. In this case, the acts were of less seriousness than is seen in some other cases and did not result in significant or long-term injury. The relevant acts were committed in the context of a mutual and ongoing drug problem. This does not provide you with any significant mitigation but coupled with the absence of any prior history of violent offending, including by way of family violence, it does explain your conduct within a specific context. However, because the crime involved repeated acts of family violence, which were not isolated, there is a requirement for a sentence which emphasises general deterrence and denunciation. The appropriate sentence is one of imprisonment. However, when I have regard to the various mitigating factors I am satisfied that a wholly suspended sentence adequately fulfils the sentencing aims in this case. Further, given the relationship between the violence and your long-standing drug use, I think that some community supervision is appropriate. This can be achieved by making such supervision a condition of suspension.

Because you will be convicted of the crime of persistent family violence, the preconditions for a declaration that you are a serial family violence perpetrator exist. Accordingly, I am required to make such a declaration if I am of the opinion that the declaration is warranted. In making that determination, I must have regard to the factors set out in s 29A(3). Having regard to those factors, I am not of the opinion that a declaration is warranted. In particular, when I have regard to the nature and circumstances of the unlawful family violence acts which constitute the persistent family violence, your antecedents which are free from any prior family violence offending and the fact that ongoing supervision will address risk factors arising from your drug use, I am of the view that the risk that you may commit further family violence offences is relatively low. Accordingly, I decline to make such a declaration.

The orders I make are as follows:

- 1 You are convicted of the crime to which you have pleaded guilty;
- 2 You are sentenced to a global term of 18 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 drug 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 by a probation officer;*

- 3 Pursuant to s 13A of the *Family Violence Act*, I direct that the crime be recorded on your criminal record as a family violence offence.