

Mr Mansell, a jury has found you guilty of two counts of unlawfully injuring property and three counts of perverting justice. You were acquitted of a charge of persistent family violence but a verdict of guilty was returned to an alternative charge of contravention of a family violence order.

All the offending of which you have been found guilty relates to your relationship with your former partner, who was the complainant in respect of the persistent family violence charge. I will refer to her as the complainant in these comments. The offending took place during August 2023. According to the complainant, you and she had been in a relationship since the beginning of that year, although your counsel told me that the relationship actually started some years before.

The two crimes of unlawfully injuring property took place as part of the same course of conduct during the evening of 4 August 2023. The evidence of what took place comes primarily from the complainant, although it is substantially corroborated by CCTV footage. I accept the complainant's evidence about what took place. On that evening, the complainant and her younger brother were at the house of a friend. That woman was absent from the house but had left her cars in the driveway. Between 7 and 8 pm, you entered the property by climbing over the rear fence. You had attempted to disguise your appearance by wearing a face covering and you were carrying a metal implement. As you came over the fence and during the course of the relevant events, which lasted for about 20 minutes, you were screaming derogatory and threatening abuse at the complainant. She and her brother were having a cigarette just outside the back door when you jumped over the fence. When they saw and heard you coming, they hastily re-entered the house and locked the door. They were able to do so just before you reached the door. You continued to scream at them and hit a glass panel in the door a number of times with the metal implement. All of this can be seen on the footage. You caused significant damage to the panel although it did not break completely. After doing this for a lengthy period, you went to one of the cars in the driveway and smashed the windscreen and the passenger side front window. You then threatened the complainant that you would return with a shot gun and shoot her brother, and then you left.

On the night of 14 August, you made numerous unanswered calls to the complainant. Eventually, she answered one of the calls. During the conversation which followed, you threatened to shoot and kill her five-year-old daughter. She lured you into repeating the threat, so that she could record it. You did, and she successfully captured the recording on her mobile telephone. This threat was in breach of a condition of a family violence order which had been made for the protection of the complainant on 4 March 2022, which required you not to threaten the complainant. By threatening to shoot and kill her daughter, the jury was satisfied that you had contravened this condition.

The perverting justice crimes were committed during the course of two telephone conversations made by you in quick succession on 26 August 2023. You were in prison on remand having been arrested two days earlier in respect of family violence allegations, some of which formed the basis of the charge of persistent family violence upon which you were acquitted by the jury. Both calls were recorded by the prison. The first telephone conversation was with the complainant. You placed pressure on her to withdraw her statement with respect to the family violence

allegations. The jury's verdict confirms that you did this with the intention of perverting justice in respect of your prosecution for those alleged acts. The second telephone call was made shortly after the first. It is to a mutual friend with whom the complainant was staying. You attempted to have this person pressure the complainant to withdraw the statement. At one point during the conversation, you told that person that she would have to bash the complainant to have her do what you wanted. As it turns out, neither woman did what you wanted, and the prosecution went ahead, but of course by then the offences had been committed. It is of some relevance to your culpability that you have now been acquitted of some but not all of those allegations, although the weight attributable to that consideration is limited.

In assessing your culpability for these crimes, I will not have regard to the wider family violence context as alleged by the complainant during the course of her evidence. I am going to disregard this context because of the jury's rejection of the allegation of persistent family violence. Having said that, each of the crimes of which you have been found guilty have individually a high level of objective seriousness. The events during which you damaged the property not only involved an arrogant and unacceptable interference with the rights of the owner of that property, but also were committed for the purpose and in the context of significant verbal abuse and intimidation of the complainant and her brother. The threat to shoot the complainant's daughter was abhorrent. It also showed a complete disregard of your obligations under the family violence order, which is a matter that tends to undermine the integrity and force of such orders. The perverting justice charges are serious because they again tend to undermine the criminal justice system. While I can accept that you may have believed that you had been wrongly accused of at least some of these acts, your attempt to have the complainant withdraw her statement involved serious criminality. All of your offences warrant a sentence which will denounce your conduct and deter others from acting in a similar way.

You are now 23 years of age. You had a difficult childhood. You are one of seven children and were exposed to your father's abuse of alcohol and drugs, and the family violence which he perpetrated against your mother. You spent periods of time in foster care. At the age of 15, you witnessed the death of your father, and this had a profound impact on you. You started to abuse illicit drugs and have struggled with a drug problem since then. You also met and commenced a relationship with the complainant around this age. She was 24 and you were 15 at the time.

Much of this is consistent with your criminal history. Your first interaction with the criminal justice system occurred when you were aged 11. Thereafter, you were dealt with as a youth for a number of serious offences. In March 2022, you were convicted of numerous offences many of which involved breaching a family violence order. Some, but not all, of those offences related to the complainant. You were sentenced to a partially suspended sentence of imprisonment. Many of the breaches seemed to involve abusive and threatening conduct, which is similar conduct to that committed by you in this case. You were also sentenced for assaulting another woman who was a former partner. In August of that year, the suspended part of the sentence was activated because of new offending, and you served six months in prison. In August 2023, at almost the same time as your commission of the crimes in the case before me, you were sentenced by this Court for the crimes of wounding, being unlawfully armed in public and other firearms offences. A wholly suspended sentence was imposed on you on that occasion. In September 2023, you were sentenced to two months imprisonment for contempt of court but this conviction was later overturned on appeal. In February 2024, you were sentenced for breaches of a family violence order relating to the complainant and the earlier suspended sentence as far as I can see was partially activated.

Although you have been acquitted of the main charge in this case, the matters of which you have been found guilty combined with your record demonstrate a propensity to commit family violence. It is necessary for me to take this into account when giving consideration to the appropriate sentence. I also need to have regard to the risk that you may commit further family violence offences when determining whether a declaration that you are a serial family violence perpetrator is warranted. Your conviction for the contravention of the family violence order in this case, combined with your prior convictions, means that the preconditions for the making of such an order have been satisfied. In my view, when I have regard to the circumstances of the injuring property charges and the contravention of the order combined with your past history, I am satisfied that a declaration is warranted.

In respect of sentence, I am satisfied that your crimes warrant a sentence of imprisonment. However, it is common ground that you have now spent in excess of 12 months in prison which is unallocated to any other sentence. Further, there is some reason to be hopeful that you are at least entertaining the need to reform your conduct. I also have regard to your young age. For these reasons, I intend to impose a sentence of imprisonment which will be backdated a sufficient time to encompass the time that you have already spent in prison, with the balance suspended on conditions which include supervision. This will hopefully encourage and support rehabilitation. Whether you take up the opportunity offered by the sentence will be entirely a matter for you. If you reject that opportunity and, in particular, commit further offences, then it is highly probable that you will be required to serve the balance of the sentence.

The orders I make are as follows:

- 1 You are convicted of the crimes and the offence of which you have been found guilty.
- 2 You are sentenced to a global term of 21 months imprisonment. The sentence will be backdated to 2 April 2025. The balance of the sentence from today, a period of nine months, will be 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 undergo assessment and treatment for alcohol dependency as directed by a probation officer;*
 - vi submit to testing for alcohol use as directed by a probation officer;*
 - vii submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer;*
 - viii be assessed for, and if eligible attend, participate in and complete such courses or programs, including the Family Violence Offending Intervention Program, as may be determined by a probation officer*
- 3 Pursuant to s 29A of the *Family Violence Act*, I declare you to be a serial family violence perpetrator. The declaration is to remain in force for a period of three years. I direct that the declaration be recorded on your criminal record.
 - 4 Pursuant to s 13A of the *Family Violence Act*, I direct that the offence of contravention of a family violence order be recorded on your criminal record as a family violence offence.
 - 5 I make a compensation order in favour of ****name removed**** in a sum to be assessed and I adjourn assessment sine die.
 - 6 I do not intend to make a further family violence order.