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THE SUPREME COURT OF
THE NORTHERN TERRITORY

SCC 22409557 and 22322211

THE KING

and

GERRARD GILES

(Sentence)

SOUTHWOOD J

TRANSCRIPT OF PROCEEDINGS
AT DARWIN ON FRIDAY 22 NOVEMBER 2024

Transcribed by:
EPIQ

HIS HONOUR: Gerrard Giles, the offender, has pleaded guilty to three counts on an indictment dated 8 July 2024.

Count 1 charges that contrary to s 241(1) of the *Criminal Code* on 13 July 2023 at Alice Springs the offender caused damage to property, namely a mobile phone belonging to CL. The maximum penalty for this offence is imprisonment for 10 years.

Count 2 charges that contrary to s 181 of the *Criminal Code* on 14 July 2023 at Alice Springs the offender unlawfully caused serious harm to CL. The maximum penalty for this offence is imprisonment for 14 years.

Count 3 charges that contrary to the same provisions of the *Criminal Code* on 17 March 2024 at Alice Springs the offender unlawfully caused serious harm to CL. As I have said, the maximum penalty for that offence is imprisonment for 14 years.

In addition, the offender has pleaded guilty to a charge on complaint on file number 22322211 that has been transferred to the Supreme Court from the Local Court. The count charges that contrary to s 120(1) of the *Domestic and Family Violence Act* on 14 July 2023, which is the date of the first substantive violent offence, the offender, being a person whom a domestic violence order was in force, engaged in conduct that resulted in a contravention of that domestic violence order. The maximum penalty for this offence is imprisonment for 5 years.

The offender is 26 years old. He was 25 years old at the time of the offending. The offender speaks Luritja, Pintupi and English. He was raised by his parents in Kintore before being taken into the care of his grandmother.

The offender stated that he had a happy childhood despite his removal from his parents. During the time the offender was in his grandmother's care, the offender's grandmother would take him to Alice Springs to visit family. While in Alice Springs, he was exposed to alcohol abuse and family conflict.

The offender's grandmother passed away on 8 July 2023.

The offending on file 22322211 happened six days after his grandmother's death.

The offender attended primary school in Kintore before he attended Yirara College in both Kintore and Alice Springs. He completed year 10.

The offender worked as a casual ranger at Central Desert Council from 2019 to 2021. He also worked as a support worker with youth services at NPY Women's Centre on a casual basis from the middle of 2022 to September 2024. He is currently unemployed and is supported by Centrelink payments when in the community.

The offender has no longstanding physical or mental health issues; however, on 15 January 2022, the offender was admitted to the Emergency Department at the Alice Springs Hospital after having suicidal thoughts following an argument with the victim. The offender was discharged on the same day after being reviewed by the mental health team at the hospital.

On 16 January 2022, the next day, the offender was readmitted to the Emergency Department for suicidal thoughts. The offender made verbal suicidal threats to police after they threatened to arrest him for contacting the victim; this being a time when he was subject to a domestic violence order.

The offender has a limited criminal history in the Northern Territory. Most of his convictions are for traffic offences and breach of bail.

The facts of the offending which are the subject of this matter are as follows.

The victim in this matter, as I have said, is CL. She was 25 years old at the time of the offending in July 2023 and 26 years old at the time of the offending in March 2024. The victim and the offender were in a relationship from sometime in 2020 to February 2023.

On 25 January 2022, a Domestic Violence Order naming the victim as the protected person and the offender as the defendant was made. The domestic violence order was in force from 25 January 2022 to 24 January 2024.

The offender was restrained from directly or indirectly causing harm or attempting or threatening to cause harm to the protected person, causing damage to the property or attempting or threatening to cause damage to the property of the protected person and intimidating or harassing or verbally abusing the protected person. The offender was served with a copy of the Domestic Violence Order on 25 January 2022.

On 13 July 2023, the offender and the victim were at Flynn Drive IGA when the offender started arguing with the victim because he had jealousy issues and said she cheated. He took the victim's mobile phone and smashed it. They then walked back to [redacted].

At approximately 3:45 am on 14 July 2023, the offender and the victim were at [redacted]. The victim's cousin, DS, was also there with her child, RS. The offender, the victim, DS and RS were all in the bedroom.

At some time in the morning, the offender started asking the victim for something, and the victim ignored him. The offender grabbed the victim by her hair and threw her to the ground. He then kicked her to her face, ribs and arm. Throughout this attack, the offender also punched the victim.

During the attack, the victim screamed for DS to help her. DS yelled at the offender to stop, but he did not.

DS left the bedroom and took her child into the lounge room. She could still hear the offender and the victim yelling at each other. Eventually, the offender stopped assaulting the victim.

At some time after the assault, the victim ran out of the house to [redacted], where she used a public telephone to call police. At approximately 8 am, Constables Tom Drahos and Melissa Ferris attended [redacted] and spoke to the victim. She told them that the offender had punched her in the ribs and kicked her in the head.

The constables took the victim to the Alice Springs Hospital, where she provided a video statement and told police that the offender had smashed her phone. During the statement, she told police that she was punched in the face and kicked in the ribs, head and arm.

Shortly after the victim's admission to Alice Springs Hospital, the constables were advised that the offender had attended the hospital and was looking for the victim. They located him at the hospital and he was arrested and taken to the Alice Springs Watchhouse.

The victim was assessed as having a left radial shaft fracture of her left arm, which required her to be taken to the operating theatre for an open reduction internal fixation, which required a plate and screw fixation of her radius.

On 10 August 2023, Dr Matthew Cehic assessed the mid-shaft radius fracture of the victim's left arm as amounting to serious harm.

As to count 3; at approximately 8 am on 17 March 2024, the victim was asleep with her new partner, EG, in a unit at [redacted].

The offender attended the residence in a motor vehicle with his parents, AM and TG. They remained in the motor vehicle while the offender went inside.

The offender went into the residence, pulled the blanket off the victim, which caused her to wake up. Without provocation, the offender punched the victim an unknown number of times to the face and ribs and kicked her twice to her right arm.

This caused her immediate pain, dizziness and light-headedness following the attack on her.

The offender punched the victim with a closed fist.

As a result of the attack upon her, the victim received a fractured right forearm.

The offender then left the unit and went to Larapinta Valley Camp.

At approximately 10 pm, the victim called 000 for St Johns Ambulance. She reported a broken right arm as a result of being assaulted by the offender.

At about 11:30 pm, Constables Bin-Omar and Baden Ford attended [redacted] Larapinta Camp. They were unable to locate the victim.

Shortly after, they attended the Alice Springs Hospital and were advised that the victim had just arrived. She was admitted to hospital and discharged on 20 March 2024. As a result of the attack upon her, the victim received a fractured right forearm.

At 4:10 pm on 18 March 2024, Constables Luke Sandry and Michelle Ellis attended [redacted] and arrested the offender. He was taken to the Alice Springs Watchhouse and charged.

On 11 April 2024, Dr Jonghoo Sung assessed the right radial shaft fracture as amounting to serious harm.

The offender declined to speak to police after obtaining legal advice.

In a victim impact statement dated 14 July 2023, about the first assault upon her, the victim stated that she suffered pain and could not move her left arm. She said she had a sore head where she got kicked and pain on the right side of her head. Her ribs are sore where the offender kicked her.

The victim wrote that she is scared and shaken by the attack on her. She screamed for help when the offender punched and kicked her. The victim felt like she wanted to die. She is scared that the offender and his sister will come and find her. The victim also stated that her life is horrible and that she should not have been in a relationship with the offender. She said that she wanted to leave and never come back.

The offence, contrary to s 241(1) of the *Criminal Code*, that was committed by the offender is an aggravated property offence. Nonetheless, it is really a low-level offence. The offender took the victim's mobile telephone and smashed it. He did so while in a jealous rage. There is no evidence as to what gave rise to the jealous rage.

The offence of cause serious harm committed on 14 July 2023 is a serious offence that was committed while the offender and the victim were in a domestic relationship or, really, towards the end of the domestic relationship and while the offender was subject to a domestic violence order.

The offending occurred over a period of time without any provocation other than the victim ignoring the offender. It involved the offender grabbing the victim by her hair and throwing her to the ground, kicking her to her head, face, ribs and arm and punching her in the face.

The offender persisted in assaulting the victim despite DS yelling at him to stop.

Because of the offender's assault on her, the victim suffered a left radial shaft fracture that required her to be taken to the operating theatre for an open reduction internal fixation of her left radial shaft fracture.

The offence of unlawfully cause serious harm committed on 17 March 2024 is also a serious offence. It was perhaps somewhat more serious than the first offence of cause serious harm. It occurred after the offender and the victim had separated. It was committed while the offender was on bail for the offence he committed on 14 July 2023 and was subject to electronic monitoring. The electronic monitoring did not in any way restrain his conduct.

The offender went into the victim's home and into her bedroom. He pulled a blanket off her and he punched her in the face and ribs with a closed fist an unknown number of times and kicked her twice to her right arm. The offender then left with his parents.

The victim was admitted to Alice Springs Hospital. As a result of the attack upon her, the victim received a fractured right forearm, which required medical treatment. Despite the intervention of the courts and being processed, to a degree, for the first assault, the offender assaulted the victim a third time.

As I say, in between committing the two offences of unlawfully cause serious harm, the offender assaulted the victim on a third occasion, for which he was sentenced to 10 weeks' imprisonment. The final assault occurred shortly after his release from prison for this offence.

The offender must be punished for the crimes he has committed. Considerable weight is to be given to both specific and general deterrence. The second offence, that is the second offence of cause serious harm, was a particularly brazen offence and was committed while the offender was on bail.

Men are not entitled to seek to control women in the manner that the offender did, and the courts must do what they can to protect women from such harm. Women are not required to behave the way partners wish them to behave.

The offender is entitled to a discount in his sentence for his plea of guilty. He is so entitled despite the fact that he is not remorseful for the crimes he has committed.

On the positive side, the offender is still relatively young. He is 26 years of age. He has been in meaningful employment. He has previously worked in Kintore community for the Central Desert Council as a casual ranger, looking after country, controlling feral animals, fence-building, looking after sacred sites, rock holes and other special places, sharing knowledge with children and recording information about country.

He has also worked as a casual Anangu support worker with youth services on country. He is still on that staff.

The offender has a support network in Kintore. If he returns to Kintore, he would be able to complete the Cross Border Family Violence Program. I note that it is most unlikely that he will be offered a significant program while he is in prison because of the overcrowding currently in the Northern Territory prison system and because of the lack of places in most important courses.

However, it is also important to note that the offender did reoffend twice while on bail. He did so while being subject to electronic monitoring. Electronic monitoring was not an effective deterrent to stop him committing the second assault for which he is to be dealt with for today. It did not stop him seeking out the victim. I take that aspect of his conduct into account.

I sentence the offender as follows.

For count 1 on the indictment, I sentence the offender to 4 months' imprisonment. I backdate the commencement of that sentence to 15 November 2023. I have reduced the sentence that I otherwise would have imposed on the offender by 1 month as a result of his plea of guilty.

For count 2 on the indictment, which is the first charge of cause serious harm, I sentence the offender to 2 years and 5 months' imprisonment. The commencement of that sentence is also backdated to 15 November 2023. As a result of the offender's plea of guilty, I have reduced the sentence that I otherwise would have imposed on the offender by 7 months.

For the count on complaint, being the count of breaching a domestic violence order, I sentence the offender to 1 year and 7 months' imprisonment. As a result of his plea of guilty, I have reduced the sentence that I otherwise would have imposed on him by 5 months. Seven months of the sentence of imprisonment is to be served cumulatively on the sentence of imprisonment that I have imposed for count 2 on the indictment.

That gives a total sentence of 3 years' imprisonment thus far.

For count 3 on the indictment, I sentence the offender to 2 years and 10 months' imprisonment. Because of the offender's plea of guilty, I have reduced the sentence of imprisonment that I otherwise would have imposed on the offender by 8 months. Twelve months of the sentence is to be served cumulatively on the sentence of imprisonment I have imposed for breaching the domestic violence order.

That gives a total sentence of 4 years' imprisonment, commencing on 15 November 2023. The sentence of imprisonment is to be suspended after the offender has served 2 years and 6 months in prison, commencing on 15 November 2023. The sentence of imprisonment is suspended on the following conditions.

- 1) For a period of 18 months following his release from prison, the offender is to be under the supervision of a Probation and Parole officer and he is to obey

all reasonable directions of his Probation and Parole officer.

- 2) Immediately upon his release from prison, the offender is to travel to Kintore, where he is to remain for a period of 18 months while on supervision.
- 3) The offender is not to leave Kintore without the permission of his Probation and Parole officer or except in the case of a medical emergency.
- 4) Upon entering Kintore, the offender is to enter into and complete the Cross Border Family Violence Program as soon as it is made available to him.
- 5) While in Kintore, the offender is to reside with his mother.
- 6) The offender is not to contact or approach or communicate, directly or indirectly, with the victim of the offending.
- 7) At the direction of his Probation and Parole officer, the offender is to enter into any other rehabilitation course that his Probation and Parole officer deems appropriate.

Anything further?

MR LONERGAN: Not from the Crown, your Honour.

MR BOULTEN: Nor me. Thank you.

HIS HONOUR: I thank counsel for your assistance.

Please adjourn the court.
