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THE SUPREME COURT OF  
THE NORTHERN TERRITORY

SCC 21909927

THE QUEEN

and

JOEL GEORGE DANIELS

(Sentence)

KELLY J

TRANSCRIPT OF PROCEEDINGS  
AT DARWIN ON THURSDAY 3 OCTOBER 2019

Transcribed by:  
EPIQ

HER HONOUR: Joel George Daniels, you have pleaded guilty to one count of unlawfully entering a dwelling house in Nightcliff, and causing damage to the dwelling house. The maximum punishment for that offence is imprisonment for 7 years.

You have also pleaded guilty to two counts of unlawful assault on VG. The first one, aggravated by the fact that she suffered bodily harm and that she is a female and you are a male. The second one, aggravated by the fact that she is a female and you are a male. The maximum punishment for each of those is imprisonment for 5 years.

I am going to talk about what happened now, or about what you did.

You are now 30 years old; I can interpolate, old enough to know better. At the time you committed these offences, you were living with your sister at a unit in Nightcliff. The victim in this matter, VG, is 26.

At the time you committed these offences, she was living in a different unit in the same complex with her three children. You and VG were previously in a domestic relationship and you have three young children together, aged 9, 3 and 2.

At about 5 o'clock in the evening on Sunday 3 March 2019 the victim and her three children were watching television at home. You went to their home and tried to get in but the doors were locked. You yelled out to VG to let you in, but she told you to leave because she believed you were under the influence of drugs and alcohol.

You kicked the front door of the unit. VG was scared that you would break the door. She told you to go away and that you were not welcome. She pushed against the door, trying to stop you from kicking the door in. You ran around to the back door of the unit before VG realised what you were doing.

You kicked the door. The doorframe and deadlock broke and the door swung open. You went into the unit carrying a bottle of Bacardi Rum and immediately confronted VG. She was yelling at you to get out and that you were not welcome there. You and VG argued while the three children were present in the room.

VG walked into the kitchen area. You followed her and confronted her. You grabbed her by the forearm, causing a bruise. Then you pushed her, causing her to hit her forehead on the wall and fall to the ground. While she was on the ground, you rummaged through her handbag and purse. That was on the kitchen counter.

VG got up off the ground and went into the lounge to check on the children. She went back to the kitchen and found you with her money. But she was able to take it off you.

You then grabbed the two younger children, left the unit and walked down to your sister's unit in the same complex. The oldest child refused to go with you. VG

left the unit with her oldest daughter and walked towards the payphone in front of the unit complex.

You followed her part of the way there. While you were following her, she abused you. You spat at her and the spit landed on her face. VG walked to the phone booth and called the police. Police arrived a short time later, arrested you and took you to the Darwin Watchhouse.

The following day, that is Monday 4 March, you declined to participate in a formal interview with police after you got legal advice. At no time did you have permission to enter and damage the unit or to assault the victim.

VG received a bruised forearm as a result of being grabbed and tenderness to the back of her head.

I have had the opportunity of reading a victim impact statement from the victim. It was quite short. But she says that in addition to the physical harm she suffered, she felt sad and angry. She felt hurt and hurt for her kids seeing the victim. She does not want her kids to see domestic violence, understandably.

I am going to talk about you now.

You have a quite lengthy criminal history. In addition to miscellaneous driving and other fairly minor offences, you have two weapons offences, three convictions for property damage, one for unlawful entry, one for aggravated assault and one for unlawfully causing serious harm. As well as four drug offences, all for possession, including one Sch 1 drug offence.

Importantly, you have five breaches of bail, seven convictions for breaching domestic violence orders and one breach of a suspended sentence. This shows a pretty appalling attitude towards orders of the court. I am informed that most, if not all, of the breaches of the domestic violence orders involved the same victim as the presents crimes.

Among the convictions that I have listed was an incident in 2013, which was disturbingly similar to the present one, in which you broke into the victim's house, caused damage and assaulted her, in breach of a domestic violence order. You were dealt with in the Local Court for those offences and given a very lenient sentence. I think it added up to something like 13 weeks and 3 days' imprisonment.

I have been given some personal information about you, some of which I took from previous sentencing remarks in 2012 and some of which was provided by your counsel.

You were born in Darwin and you spent the first six years of your life in Ngukurr. After that, you moved to Goulburn Island, where you spent most of your life. Your mother was from Ngukurr, but you did not meet her until relatively recently and you did not know your father. You were raised by your grandmother on Goulburn Island.

You are an only child. You did have an older brother, who, sadly, passed away when he was only 16. That was before you were born. You were born soon after and your mother named you after your brother.

I am told you had a happy childhood. But family members told you your mother was an alcoholic and a dangerous person, and you say you later found out that that was not true. You only really started talking to each other a few years ago, but you got on well, and it was very sad and a significant loss for you when your mother died in 2015, suddenly.

Growing up on Goulburn Island, you lived a fairly traditional lifestyle, although you did go to school. After primary school, in year 7, you went to Kormilda, year 9, to St John's College. Apparently, you did not know anyone there, so you moved to Marrara Christian School, where you did years 9 and 10.

You were going to do year 11 at Marrara, but while you were on Goulburn Island for the Christmas holidays, you got a job as a bank teller and decided to take that job instead. I find this extraordinary but apparently, you say you are both illiterate and innumerate, but you got a job as a bank teller, in any event.

Up until you were sentenced for causing serious harm in 2012, you had a good work history. You worked as a bank teller for two years, 2005 and 2006, and in 2007, you got a job with the sea rangers. And while you were working as a ranger, your aunty died. You went to her funeral in Katherine, and while you were there, that is where you met the present victim. You went back to Goulburn Island together and since then, you have had three children.

You went to prison in 2012 for causing serious harm. That was not to a woman; that was to a man. After you were released from prison, you moved to Mutitjulu and you worked as a ranger there. You started drinking regularly at Yulara motels and hotels.

Your mother, as I said, passed away unexpectedly in 2015. You came back to Darwin for your mother's funeral and you took up drinking at even greater levels. You and VG separated for a time after your first daughter was born. I am not sure when that was. You later reconciled and had two more children. I gather that relationship is now over and you are having a battle over custody of the children. And I was told, I think on the last occasion, that they are now in care.

You say VG was a drinker and an occasional drug user and that you quickly became entrenched in that lifestyle. That sounds like you are blaming her. You started using ice and cannabis regularly. Now, I want to make this clear. That was your choice.

You stopped working and became reliant on government benefits. In your counsel's submissions, it says it was your drug use that brought you into regular contact with the court system, including in relation to breaches of non-intoxication

domestic violence orders. I am going to make this clear again. That was also your choice, as it was your choice to commit these present offences.

As far as your readiness to work is concerned, you have a number of qualifications, including a Certificate II in Finance, Certificate II in Automotive Engineering and a Certificate II in Workplace Safety.

You have told the court through your lawyer that you recognise that you have a significant drug problem and you need help with it. I have read that report that was written by the Corrections officer and, apparently, you do not admit to having a continuing alcohol problem despite your previous history of alcohol abuse.

At least that is what you told the Corrections officer. Well, I do not believe that. You were carrying a bottle of Bacardi Rum when you broke into the victim's unit.

You told your lawyer that you hoped to attend rehabilitation and then use your work history and qualifications to go back to work. You told the Corrections officer who wrote the report that after you do rehabilitation, you will be living with your family members at Yilli Rreung. They were unable to confirm that. I do not know.

I need to talk to you about the things I need to take into account in sentencing you. These are serious offences. This is a serious case of domestic violence. You tried to break down the front door of the victim's house, and you succeeded in breaking down the back door.

You did this in front of the children. It must have been very frightening for everybody concerned. You are a big man. Then you assaulted the mother of your children in front of the children. This is a recognised form of child abuse. It is the sort of behaviour that teaches children the absolute wrong way to deal with conflict and it perpetuates that intergenerational cycle of violence.

It is also traumatising for the children and it can affect their psychological wellbeing and even their brain development. It is your job to protect and care for those children and you failed them utterly.

Also, in addition to the physical assault, which bruised the victim and hurt her head, knocking her to the ground, spitting in the victim's face would have been humiliating and really disgusting for her. But the person it demeaned the most was you. It was a disgusting thing to do.

You told the Corrections officer that you broke into the unit because you thought the victim was assaulting your daughter. I do not believe that either. You were drunk and belligerent and you went there to cause trouble. What is more, you took money out of her purse. Luckily, she got it back from you.

I have to impose a sentence that will discourage other people from doing what you have done. I have to compose a sentence that will discourage you from doing

something like this again. You have done it before. You have a bad history of breaching domestic violence orders and you have not learnt your lesson.

This kind of violent and abusive behaviour towards women is absolutely unacceptable, particularly in front of children, and the court needs to send a strong message to the community that it will not be tolerated.

You have pleaded guilty and you are entitled to a reduced sentence because of that. However, even though your plea has to be accepted as some indication that you are accepting responsibility for what you did, I see no signs of remorse, and what is more, you are continuing to try to minimise your offending. I intend reducing your sentence by around 20 per cent.

On count 1 – that is breaking into VG's home – if it was not for your guilty plea, I would have sentenced you to a term of imprisonment for 2 years. Allowing a reduction of around 20 per cent, you will be convicted and sentenced to a term of imprisonment for 19 months.

On count 2 – that is the aggravated assault causing harm – if not for the guilty plea, I would have sentenced you to a term of imprisonment, again, for 2 years. Allowing a reduction of around 20 per cent, you will be convicted and sentenced to a term of imprisonment for 19 months.

On count 3 – that is the aggravated assault by spitting in her face – if it was not for your guilty plea, I would have sentenced you to a term of imprisonment for 12 months. Allowing a reduction of around 20 per cent, you will be convicted and sentenced to a term of imprisonment for 10 months.

Because this was part of a continuing course of conduct, there should be substantial concurrence. That means those terms of imprisonment should be served substantially together but not totally. There should be an additional penalty for assaulting the victim, in addition to the penalty for breaking down the door and entering into her home.

I am going to direct that the sentence for count 2 be served concurrently – that is together with the sentence for count 1 – for 16 months and cumulatively for three months, bringing your sentence up to 21 months. I am going to direct that the sentence for count 3 be served concurrently with the sentence for count 2 for nine months and cumulatively for one month, bringing your total sentence to a term of imprisonment for 22 months, starting on 3 March 2019.

Because of your appalling record of non-compliance with court orders, I did seriously consider fixing a non-parole period. Indeed, I was urged by the prosecutor to do so. However, I have received a supervision report assessing you as suitable for the COMMIT Program. You have been found suitable.

In the interests of your rehabilitation, I do think you should be given that opportunity to take part in that program. It involves a period of intensive supervision

by a Corrections officer over an extended period of time instead of a longer prison sentence.

So I am going to direct that your sentence be suspended forthwith on the following conditions. Firstly, I fix an operational period of three years. I had better explain that first.

That means that for the next three years, you must not commit an offence punishable by imprisonment, and if you do, you will be brought back here and the likelihood is that you will have to serve the outstanding balance of your suspended sentence.

Let me warn you of this: if you commit another offence like this – that is assaulting this woman, particularly in front of the children, or assaulting any other woman – I will almost certainly send you back to finish your sentence, in addition to whatever other sentence you get.

The other conditions on your suspended sentence are these:

1. For the next three years, you are to be under the ongoing supervision of a Probation and Parole officer.
2. You are to obey all reasonable directions from a Probation and Parole officer.
3. You must report to a Probation and Parole officer as soon as the order comes into force. So that is today.
4. You must tell a Probation and Parole officer of any change of address or employment within two working days.
5. You must not leave the Territory except with the permission of a Probation and Parole officer.
6. You must appear before the Court if directed by a Probation and Parole officer.
7. You will, at the direction of a Probation and Parole officer, immediately enter into the FORWAARD residential rehabilitation program or other suitable program, participate fully in the program and do nothing to cause your early discharge.
8. You must not possess, purchase or consume alcohol and you must submit to testing as directed by a Probation and Parole officer or a police officer to test for the presence of alcohol.
9. You must not possess, purchase or consume any dangerous drug and must submit to testing as directed by a Probation and Parole officer for the purpose

of detecting the presence of dangerous drugs.

10. If and when directed by a Probation and Parole officer to do so, you will abide by any curfew imposed.

11. If and when directed to do so by a Probation and Parole officer, you will wear an approved electronic monitoring device and comply with all of the regulations in relation to that.

I am going to explain to you a little bit about the COMMIT Program. I dare say you have been told about it by your counsel, and it will be explained to you by a Corrections officer in more detail later.

But a key part of it is this: you have been given this opportunity to participate in the COMMIT Program because I believe that there is at least a chance that you can succeed. If I thought there was no hope, I would not do it. But you need to understand what is involved.

Those conditions that I just imposed on you are to be complied with and they are to be complied with to the letter. They are an essential part of your sentence. They are important for two reasons: they are an essential part of your sentence, but also, they are there to help you move forward with your life after your release today and to help you not re-offend, and importantly, to help you deal with a drug problem and what I believe is also an alcohol problem.

It will be your choice whether you comply with those conditions or not, but your choices will have consequences. If you choose to breach the conditions, any one of those conditions, you will be brought back here and I will restore part of your suspended sentence. That is every single breach, you will be brought back here. Every single breach, you will do some prison time.

But if you chose to follow the rules, then you will never be brought back here and you will not have to do any prison time.

One of the key parts of this regime is, though, to acknowledge that we all make mistakes. You can try very hard and we hope you try very hard, but if you make a mistake, how you deal with that mistake will determine what happens.

If you put your hand up straight away and admit what you have done wrong, go straight to your probation officer, then the consequences of breaching the suspended sentence will be quite small. You will spend maybe a day, two days in prison. If you try to hide what you have done, if you do not own up, you will spend a longer period of time in prison. That is the way it works.

I am not going to go through the whole thing. There is a matrix. Someone will explain it to you later, the Corrections officer. But it goes like this: you know, say you fall off the wagon and you take drugs and you go to your probation officer straight away, you will probably have one day restored. If you are tested and you

admit it, you will probably have two to seven days restored. If you do not admit it, you will have a longer period restored.

So there is a matrix that sets out the consequences and you are told that in advance, and then you know what is going to happen, so you know what consequences your choices will have. And the idea is, firstly, to help you to rehabilitate, and secondly, to put the power back with you, so that you know, "This is my choice. This is what will happen if I make that choice," okay.

The consequences range between something like one day and 30 days on that matrix. But if you re-offend in a way that is inconsistent with you really complying with the conditions of your suspended sentence, then you have to come back here and serve the whole sentence.

Look, I do wish you all the best with that COMMIT program because this is your chance to have help, to get out there and to show that you can accept that help and become a useful and productive citizen and be a positive influence in your children's lives.

Did I say that the sentence starts from 3 March? It does anyway. The 3<sup>rd</sup> of March 2019.

Is there anything else that needs to be done?

MR AUST: I just wish to confirm the sentence, your Honour. Was it intended to be 22 months?

HER HONOUR: Twenty-two months from 3 March. Did I get the maths wrong?

MR AUST: I think so. I think count 1: 19.

HER HONOUR: Was 19 months.

MR AUST: Plus three.

HER HONOUR: Yes?

MR AUST: Takes it to 22, plus one on count 3 takes it to 23.

HER HONOUR: All right, take it back.

Count 2 will be plus two, not plus 3.

MR AUST: Yes, your Honour.

HER HONOUR: Thank you for pointing that out.

MR AUST: And there's one other matter that I feel I should bring to your Honour's attention, and your Honour might wish to amend the sentence in part.

HER HONOUR: Certainly.

MR AUST: Mr Daniels is actually remanded on another file until the 17th of this month. So I anticipate, on the 17th of this month, he will be released and be able to engage.

HER HONOUR: Okay.

MR AUST: So, forthwith, he won't get the benefit of actually entering. It's a matter for your Honour.

HER HONOUR: I understand. All right, so he is remanded on another matter?

MR AUST: Yes, your Honour.

HER HONOUR: Why would I do anything different? He is remanded on another matter.

MR AUST: You don't need to. No, I'm just letting you know that it won't happen today.

HER HONOUR: Yes, all right. I thought he was going to be released today.

Anywhere in that sentence where I said, "You have to go straight away," should be amended to read, "upon your release."

MR AUST: Thank you, your Honour.

HER HONOUR: But I am suspending the sentence forthwith.

MR AUST: Yes.

HER HONOUR: Because if he is remanded on another matter, that is another matter, nothing to do with me.

MR AUST: Absolutely. Thank you, your Honour.

HER HONOUR: All right.

So, Mr Daniels, once you are released, presumably on that other matter, then that suspension takes effect and you are to go straight to a Probation and Parole officer and all of those conditions kick in.

MR AUST: Thank you, your Honour.

HER HONOUR: All right, thank you.

Please adjourn the court.

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