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IN HIS MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

THE KING

v

NOEL DAVID QUIGLEY

Mr Martin O'Rourke KC (instructed by Madden & Finucane Solicitors) for the Appellant
Mr Ciaran Harvey (instructed by the Public Prosecution Service) for the Crown

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Before: Keegan LCJ, Treacy LJ and Rooney J

KEEGAN LCJ (*delivering the judgment of the court*)

Introduction

[1] This is an appeal with leave of the single judge from a sentence imposed by His Honour Judge Neil Rafferty KC ("the judge") on 15 November 2024. On that date the judge sentenced the appellant on one charge of attempted wounding with intent to cause grievous bodily harm and one count of assault occasioning actual bodily harm to a total determinate custodial sentence of three years split equally between custody and licence. This followed the appellant's guilty plea on 13 June 2024 at Londonderry Crown Court to these charges. A further count of attempted murder was left on the books. At arraignment on 19 April 2023 the appellant had pleaded not guilty to all charges.

Background to the offending

[2] These charges arise as a result of an incident which occurred on 17 April 2021. On that date police attended at an address in Londonderry as a result of a report that a man had supposedly injected air into his veins, intending to kill himself. The police went to assist and found the appellant in the living room of his flat, injecting a syringe into his chest with two knives on a table beside him. When police made contact with the man in this flat, he proceeded to hold the knives to his throat briefly threatening to kill himself. Thereafter, one of the officers held his irritant spray and

told the appellant to put down the knives or he would spray him. The appellant's response to this was to jump up quickly and lunge towards the officers with the knives he had. Unaffected by the spray, he proceeded to attack one constable with the knives. Another officer shouted, "armed police", then fired a round which hit the appellant in the chest, and he fell to the floor. The appellant received first aid treatment and was taken to hospital as a result of the gunshot wound. He subsequently made a full physical recovery. The constable who had been attacked was also wounded but luckily, he sustained superficial lacerations to his head and right arm which were cleaned and glued after receiving medical attention.

[3] At interview, the appellant provided a prepared statement which outlined his history of epilepsy, depression, anxiety, alcohol and substance abuse. He stated that he had made a serious attempt to kill himself on the evening in question and that he was caused to go into a blind panic by the presence of the spray cannister but had no intention of hurting anyone. He declined to answer any questions at interview and relied on this prepared statement and indicated that he would be pleading not guilty.

[4] The incident that we have just described was captured on body worn video. The trial judge had the benefit of viewing this video when dealing with this case and sentencing. We have also had the benefit of viewing the video ourselves during the appeal hearing.

The judge's sentencing exercise

[5] We have had the benefit of a comprehensive written account of the sentencing remarks of the judge which has been very helpful to us. We summarise his ruling as follows. After setting out the factual background of the case, the judge records a number of salient facts. Firstly, he refers to the fact that the appellant has a significant criminal record which includes a number of previous assaults upon police officers, 15 in total. Next, he points out in his sentencing remarks that the details of the previous incidents have been provided and whilst the offences are magistrates' court level, they nevertheless constitute an established pattern of offending against police officers.

[6] In addition, the judge records that he had the benefit of a pre-sentence report, a report from Dr Devine, clinical psychologist, on the appellant's personal circumstances and psychological make-up, a counselling report and written submissions from Mr O'Rourke KC. Summarising all of this material, the judge records that the appellant is a 46-year-old male currently living with his aunt and uncle as part of his bail conditions and that he recounted that his early home life was violent, that he was a victim of child sexual abuse at eight years of age, and he was diagnosed as epileptic.

[7] The judge also records that by his mid to late teens the appellant was suffering from depression and had attempted to kill himself by way of overdose. In

this regard the appellant recounted to Dr Devine that drugs and alcohol were an issue and that by the time he was in his twenties he was in a pattern of "feeling low in mood, lonely and self-destructive." It is also recorded in the sentencing remarks that during this period of his life, he took multiple overdoses and on one occasion jumped into the Foyle. He describes these as "Some very serious, I wanted to die. Some were more about a cry for help."

[8] The judge further records that in the lead up to the night in question, the appellant told Dr Devine that this occurred in the context of his late mother's anniversary. He said that he was drinking heavily and taking cocaine. Having described the incident Dr Devine notes that the appellant reflected as follows:

> "As bad as it sounds, this is probably the best thing that has every happened to me. It got me off alcohol. My mental health is better. I'm looking after myself. I'm attending counselling and while I have my issues, overall, it has changed by life for the better."

[9] The judge also recites para 9.5 of Dr Devine's report which read as follows:

> "I was struck by Mr Quigley's psychological insight and his current positive outlook. It is clear that he has engaged in therapy which has been helpful. Mr Quigley makes a conscious effort to view things in a positive light and to identify a number of protective and positive factors presently, these include abstinence from drugs and alcohol, engagement in psychotherapy and exercise. Mr Quigley was able to reflect on the traumatic experience as a defining moment in his life and is essentially describing post traumatic growth."

[10] The judge also records the conclusion set out by Ms Melanie Kelly, counsellor, who stated as follows:

> "Noel has demonstrated a willingness to change and is making significant progress. He is feeling the benefits of therapy/counselling and how this is impacting on his ability to function day-to-day. He has a healthier sleeping pattern and is feeling less overwhelmed and more in control with regards to triggers, and situations which cause him to stress. This has not gone unnoticed by his family which seems to further client nq (sic) motivation. He is feeling more in control of his thoughts, feelings, emotions and behaviours and has developed skills and tools in order to address these. He has been committed, consistent in engaging throughout his attendance at

> therapy and overall, is benefiting from a more balanced mental health."

[11] The pre-sentence report which was available to the judge and which we have also considered, largely replicates the history given in previous reports. The probation officer assessed the appellant as at a medium likelihood of general reoffending. He was not assessed as meeting the threshold for dangerousness. The report concluded by recommending that a probation element of at least 18 months on licence or probation would be required to allow the appellant to undergo a programme of offence focused work.

Updating information

[12] During the course of the appeal we asked for some further detail on the appellant's psychiatric history. In particular, the court asked whether the appellant had ever been an inpatient and, if so, the details. In response we were told that the appellant understands that he was an in-patient on one occasion about five years ago and was there for 10 days as a result of suicidal thoughts and having taken an overdose. It is recorded that he believes he saw a psychiatrist twice in that period, but this was an informal chat and that "no formal diagnosis was made" Further records were provided which refer to crisis response, suicidal ideation, depression and alcohol addiction.

[13] We note the most recent records provided to us state as follows. Firstly, on 29 April 2021, whilst in custody for the index offence, the appellant was assessed by Dr Grainne Donohue, Acting Consultant Psychiatrist in the Mental Health Liaison Team. She records:

> "Impression –
>
> (1) Alcohol dependence;
>
> (2) This incident appears to be an episode of impulsive self-harm following the development of suicidal thoughts whilst intoxicated. During this admission he has not had any ongoing thoughts of self-harm or suicidal ideation.
>
> (3) From his history and my assessments to date there is no evidence of a mood disorder or psychotic illness."

[14] There is a letter from the mental health nurse to the appellant's GP dated 2 February 2023, referencing what appears to be a period of in-patient treatment between 7-11 February 2022. The letter from the nurse states:

> "Impression. Anti-social personality disorder, I discussed the case with Dr Campbell 23 November 2022. Management Plan:
>
> (i) Discussed with Dr Campbell 23 November 2022. There is no evidence of a mental illness.
>
> (ii) Receiving CBT --- ."

[15] Finally, we note there is a discharge letter from the same CPN dated 24 November 2022 recording discharge from psychiatric services and noting:

> "The above-named client has been discharged from AMHPCL Derry. Noel denied any current suicidal ideation, plan, or intent to end his life and realised that his thoughts are fleeting and chronic in nature. Their case was discussed with Dr Campbell, Consultant Psychiatrist and it is felt that his presentation is in keeping with a diagnosis of anti-social personality disorder, no severe or enduring mental illness was assessed. Noel is currently engaging in long-term CBT with the Old Library Trust (past 12 months) and he states that he believes that this is working well. There is no role for PCLS and Noel is happy with discharge."

[16] We have also received confirmation from the prison that the appellant as of 7 January 2025 has not been subject to any drug testing. It is reported that he is awaiting a start date to begin an ICT course and a creative writing course, that he has not been subject to any adjudications during his period of time in custody and that his presentation is positive. No mental health difficulties are highlighted in the letter from prison authorities.

Victim impact

[17] During the course of the appeal we asked to see the victim personal statement of the constable who was attacked on the evening in question. We note the significant impact upon this officer. He describes how the incident "left me feeling completely overwhelmed."

[18] Furthermore he states, "The incident impacted me immediately and still does to this day." He describes that the incident resulted in him attending Altnagelvin Hospital Emergency Department where he received medical treatment and after that he had a period of two weeks off work. He said he returned to full duties. He struggled to sleep properly.

[19] The victim statement concludes with the following:

> "I believe Mr Quigley was intent on causing serious injury to police officers that evening given his actions, and he almost succeeded before a colleague intervened and prevented Mr Quigley from causing further harm to himself. I would like to commend and thank this officer for his necessary intervention and actions, as a different outcome may have occurred. More recently, there is still occasions where I am faced with similar situations at work that give me memories of that evening which is not ideal. Some members of the public may say that is what I signed up to do when I joined the Police Service of Northern Ireland, however, I do not believe we should be subjected to these traumatic incidents. This incident will have a lasting impact on my life as well as my family and other colleagues which would have been prevented if Mr Quigley complied with police instructions on that evening."

Relevant legal principles

[20] There was no real dispute about the relevant principles to be applied by sentencers to the index offence, which is a section 18 offence. These are found in the case of *R v DPP's Reference (Nos. 2 & 3 of 2010) McAuley and Seaward* [2010] NICA 36. The sentencing range identified in *McArdle* of 7-15 years' imprisonment after conviction on a contest is generally appropriate where the offence under section 18 is committed by attacking a victim who is lying on the ground with a shod foot with intent to cause him grievous bodily harm.

[21] This authority has been applied to other scenarios which do not involve kicking on the ground but are equally serious. Thus, it is now well known that ordinarily the fact that an attack of this kind is launched will of itself be an indicator of high culpability in the commission of the offence under section 18. The place within this bracket will generally be determined by the extent of the harm caused and any other aggravating and mitigating factors. Exceptionally, there may be cases of slightly lower culpability, such as where only one blow is struck, or where the harm caused is at the lower end of the scale which would justify a marginally reduced starting point.

[22] One other case mentioned by the judge which is of some utility is *R v Smith* [2018] EWCA Crim 2393. In that case response officers attended a report of a domestic incident. Having established that an assault had occurred, Officer A moved to arrest the defendant who was in the kitchen. The officer apprehended that the defendant had picked up a knife and sprayed him with capture spray. The defendant attacked the officer with a 9cm steak knife causing a wound which required one stitch. The defendant subsequently struggled violently spitting at

officers over 19 minutes. The judge assessed the starting point as six years and allowed 25% reductions for a plea of guilty and the Court of Appeal affirmed the ultimate sentence of four and a half years as "severe but not manifestly excessive or wrong in principle." As the judge recorded it is clear that the assessment of the Court of Appeal was underpinned by the fact that this was an assault upon a police officer with a knife and was, therefore, justifiably described as a remarkably serious offence involving an attack upon a police officer, followed by a sustained and violent period of resistance.

[23] We have also considered *R v Dunlop* [2019] NICA 71. This case is a drugs case in which a delay between the index offence and sentencing allowed the court to see that there were some rehabilitative efforts undertaken by the defendant. Mr O'Rourke deployed this case to submit that as Mr Quigley had also made efforts during the three year period from the offence to sentencing to deal with his issues by way of counselling, some of which was self-funded and by way of remaining sober, that the rehabilitative aspect of sentencing was strongly in play.

[24] The case of *R v Thomasena Byrne* [2024] NICA 75 was also utilised in terms of the ingredients needed for a deterrent sentence. In that regard para [16] of that judgment states as follows:

> "[16] Summarising, the aim of deterrence in a given sentencing decision may be either expressed or unexpressed. In the former case, general deterrence is in play. In the latter case, considerations of particular deterrence, with potentially more serious sentencing consequences, arise.
> …
>
> [18] We turn next to address the issue of the interplay between the imposition of an expressly deterrent sentence and personal mitigation. It is important to emphasise that, as in so many facets of sentencing, there are no absolute rules or principles. A detailed essay on this is not required. Rather, it suffices to recall the factor of judicial discretion, the axiom that sentencing is an art and not a science (QWL para [93]), there is always scope for a merciful sentence (QWL, para [86]) and, to like effect, exceptional circumstances may have to be recognised and given appropriate weight in any given case (QWL, para [91). QWL also enunciates the following principle, at para [95]:
>
> > '… an offender's personal circumstances will rarely qualify to be accorded much weight,

particularly in a context where a deterrent sentence is required.'

We draw attention to the degree of flexibility enshrined in this formulation."

[25] The final case that was relied upon is *R v PS and others* [2024] WLR 13. This was a case of the England & Wales Court of Appeal which deals with overarching principles in relation to the sentencing of offenders with mental health conditions and disorders. Utilising the sentencing guidelines, which are not applicable in Northern Ireland, but which are used by way of assistance, this court made some general observations that mental health conditions and disorders may be relevant to sentencing in a number of ways. First, in relation to the offender's culpability. Second, in relation to the type of sentence. Third, in relation to an assessment of dangerousness. Whilst this case goes on to discuss the sentencing guidelines, there are some general propositions which have been applied in this jurisdiction taken from paras [17] and [18] of the decision as follows:

"[17] It will be apparent from all of the above that sentencing an offender who suffers from a mental disorder or learning disability necessarily requires a close focus on the mental health of the individual offender (both at the time of the offence and at the time of sentence) as well as on the facts and circumstances of the specific offence. In some cases, his mental health may not materially have reduced his culpability; in others, his culpability may have been significantly reduced. In some cases, he may be as capable as most other offenders of coping with the type of sentence which the court finds appropriate; in others, his mental health may mean that the impact of the sentence on him is far greater than it would be on most other offenders.

[18] It follows that in some cases, the fact that the offender suffers from a mental health condition or disorder may have little or no effect on the sentencing outcome. In other cases, it may have a substantial impact. Where a custodial sentence is unavoidable, it may cause the sentencer to move substantially down within the appropriate guideline category range, or even into a lower category range, in order to reach a just and proportionate sentence. A sentence or two in explanation of those choices should be included in the remarks."

[26] Following from this decision, Mr O'Rourke utilised the Sentencing Council's Guidance on Sentencing Offenders with Mental Disorders, Developmental Disorders

or Neurological Impairments. In terms of assessing culpability, he referred to Annex A which relates to the main classes of mental disorders and presenting features. This classification understandably refers to psychotic illnesses such as delirium, schizophrenia and bipolar disorders, delusional disorders and bipolar illness. It also refers to non-psychotic illnesses which include depression (seriously low mood and perhaps suicide related behaviours, but without delusions) and anxiety disorders, PTSD, substance misuse disorders, developmental disorders, autism and autistic spectrum disorders, conduct disorders, personality disorders, attention deficit hyperactivity disorder, dementia, acquired brain injury and multi-morbidity and co-morbidity cases where there is a dual diagnosis.

[27] At this point we reiterate the position that the England & Wales sentencing guidelines are not binding in this jurisdiction.

Arguments on appeal

[28] The appellant raises the following points on appeal:

(i) The application of a deterrent sentence was wrong in principle.

(ii) The judge erred in assessing the appellant's culpability as being high.

(iii) The judge failed to give sufficient weight to the appellant's rehabilitation and the delay in sentencing.

(iv) The judge erred in his treatment of the aggravating factors.

[29] In summary, Mr O'Rourke made the case that there were exceptional circumstances which would justify suspending the sentence on the basis of the mental health of the appellant and his rehabilitative efforts.

Consideration of the grounds of appeal

(i) Deterrent sentence?

[30] Given the circumstances of this offending we consider that there were two elements of deterrence relevant to the facts. First was the need to deter others from attacking responding police officers carrying out their front-line duty is obvious. We think that consideration of this was part of the judge's rationale although he does not express it particularly clearly.

[31] The second element which the judge was entitled to consider was personal deterrence given the appellant's criminal record. This includes previous assaults on police some of which are detailed in the prosecution skeleton argument. In particular, the prosecution refers to the fact that in one previous incident in July 2016, the police were called to a report of two males assaulting one another in public

in the early hours of the morning. The appellant got access to a needle and was threatening to harm himself. This was in a hospital cubicle. An officer entered the cubicle, and the appellant reached out towards him with a needle shouting "I'm going to kill you", and he ended up biting the officer on the arm as he tried to restrain him. This was a violent incident where he tried to bite a second officer saying he had Hepatitis B, and he would give it to him. He also tried to swallow a cover from one of the needles which had to be forcibly removed from his mouth.

[32] Another incident that is recorded occurred in 2017, when the appellant entered the enquiry office of the police station and put two knives to his throat before sitting down. On that occasion also, the police intervened in order to protect him. Since that incident in 2017, the prosecution record that there have been a further six incidents where similar behaviour has ensued.

[33] We accept that as a matter of principle, general deterrence ought to play little role in the sentencing of offenders suffering from a mental disorder since they do not act as an example to others. Further, it is good sentencing practice that a deterrent sentence not only enhances the appropriate starting point, it diminishes the mitigating impact of personal circumstances as per *R v Stewart* [2017] NICA 1. However, this should not be taken as a rigid inflexible rule. Each case will depend upon its own facts and it would be wrong to assume that personal circumstances cannot ever come into play when a deterrent sentence is called for. In this case the point is really whether the court should have reduced culpability on the basis of mental health difficulties. This we discuss below under the second ground of appeal.

[34] Finally we note that the judge in dealing with the issue of the deterrence of the sentence does not spell out whether it is general or personal deterrence. However, we consider it is plain that there is an element of both in this sentencing exercise. Therefore, we reject the first ground of appeal as plainly the judge was right to consider the need for deterrence in this case.

(ii) Reduction in Culpability?

[35] A better argument is whether the appellant's mental health difficulties negate the mitigation which arises due to his personal circumstances. In this case the appellant was suffering from mental impairment at the time of the offending which is described as alcohol dependence and depressive syndrome by Mr O'Rourke and Dr Devine. It is quite clear from the updated psychiatric evidence that the appellant does not have a further mental health diagnosis. The court is also bound to consider the expert evidence which confirms that the appellant voluntarily ingested drink and drugs and make an assessment in the round whether this presentation would reduce the culpability.

[36] The mental health and suicidal ideation of the offender is clearly part of the factual matrix but given the fact that he himself called for help and then assaulted

police in the same way that he had assaulted police before, there are no grounds in the medical evidence that would lead us to consider his culpability as anything other than high.

[37] Furthermore, there is nothing in the medical evidence which explains how the appellant's ability to make rational judgments or choices was affected by a mental impairment. Quite the contrary, this was as the recent records describe it, an incident fuelled by drink and drugs which was impulsive and highly dangerous. Based on the evidence the causal link necessary to reduce criminal culpability is not established in this case.

[38] Having viewed the body worn video we entirely endorse the comments made by the trial judge that the scene was "dynamic and highly distressing" and that the actions of the officers were "professional and worthy of commendation." As we see it this was a fast paced, stabbing incident which could have resulted in more serious injuries.

[39] The potential impact of mental health on culpability was recently discussed by our Court of Appeal in *R v Whitla* [2024] NICA 65 as follows at para [50]:

> "[50] In *R v Harland & Gracey* [2023] NICC 8, O'Hara J discusses the issue by reference to a decision of the fact that Hutton LCJ in *R v Doran* [1995] NIJB 75 stated that there is no automatic reason for reducing a sentence due to mental health difficulties. The Court of Appeal in England & Wales, also dealt with this issue in *R v PS and others* [2020] 4 WLR 13. In those cases, the question was as to the effect which mental health conditions might have on sentencing judges when assessing culpability and harm and any aggravating or mitigating factors. The *R v PS* decision was given in the context of guidelines issued by the Sentencing Council of England & Wales which are not binding in this jurisdiction."

[40] The principle referred to above from *R v Doran* is simple and has stood the test of time in this jurisdiction. We endorse the approach in *Doran* rather than a rigid application of the England & Wales guidelines. It is as follows.

> "Mental illness, which, of course, can vary greatly in severity and degree and in effect, is not an automatic reason for reducing the sentence imposed for a criminal offence, but we consider that there can be cases in which it is just for a court to make a reduction in the sentence which it would otherwise impose to take account of the mental illness by the accused and of its effects on his criminal conduct."

[41] Self-evidently, each case must be assessed on its own facts for a sentencer to consider whether an offender's mental health difficulties have a bearing on the criminal conduct at issue. Obviously, cases where a psychotic disorder is present are very different from those cases involving nonpsychotic conditions such as depression or alcohol dependence. Allied to this observation is the fact that intoxication by alcohol or drugs is not considered a mitigating factor in sentencing. Thus, it follows that the appellant's primary diagnosis of alcohol dependence and associated depression could not sustain the argument.

[42] Whilst the England & Wales guidelines contains descriptions of a wide variety of conditions it should be read with care. That is because some of the conditions referenced may not be classified as mental disorder and may vary in degree. In addition, having a listed condition does not automatically equate to a reduction in culpability in an individual case. In fact, we do not think this will be the result in the vast majority of cases. That is because clear and unequivocal medical evidence is required to sustain an argument that a mental disorder has reduced culpability. This should preferably be evidence from a recognised psychiatrist.

[43] In this case we consider that the judge was correct to find on an overall view that there could be no reduction in culpability and that this was a case of high culpability and low harm. We dismiss this ground of appeal.

(iii) Flawed assessment of delay/rehabilitative efforts?

[44] On this point there is evidence from Dr Devine and the therapist which paints a positive picture in relation to the appellant's changes in his lifestyle. The question is whether this constitutes exceptional circumstances which would allow us to suspend the sentence. We have thought carefully about this aspect of the case.

[45] Article 23 of the Criminal Justice (Northern Ireland) Order 1996 inserted subsections (1C) and (1D) into section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 thereby creating a requirement that the judge find exceptional circumstances before imposing a suspended sentence upon a defendant.

[46] Although Article 23 has never been brought into force the Court of Appeal has nevertheless held that where a court would normally be required to pass an immediate custodial sentence (for example, because of the need for deterrence, or to mark society's condemnation of certain behaviour) then it should carefully enquire into the circumstances of the offence to see whether a suspended sentence could be justified on the basis of exceptional circumstances. As Morgan LCJ held in *DPP's Ref (Nos 13, 14, and 15 of 2013) (R v McKeown and others)* [2013] NICA 63 at para [11]:

> "Where a deterrent sentence is required previous good character and circumstances of individual personal mitigation are of comparatively little weight. Secondly,

> although in this jurisdiction there is no statutory requirement to find exceptional circumstances before suspending a sentence of imprisonment, where a deterrent sentence is imposed it should only be suspended in highly exceptional circumstances as a matter of good sentencing policy."

[47] Whilst we accept that a suspended sentence may be a deterrent sentence, whether that is so depends on the facts of a particular case. Obviously, the more serious the offending the less likely that a court will be persuaded that a suspended sentence meets the need for appropriate punishment and the public interest in achieving appropriate sentences.

[48] It is commendable that the appellant has had a period of sobriety, and we take that into account. Against that, this was a serious episode of offending against police officers who were trying to assist the appellant. In assessing whether the delay in the case which has led to some rehabilitative efforts should amount to exceptional circumstances, the nature of the offending must not be lost sight of. In this case, the nature of the offending is of such a serious level that it is not counterbalanced by the rehabilitative efforts of the offender to the extent that exceptional circumstances are made out.

[49] Overall, we do not think that a suspended sentence is an appropriate disposal in such a serious case as this which involved violence and the use of knives against police. Therefore, we dismiss this ground of appeal.

(iv) Over estimation of aggravating factors?

[50] We find no merit whatsoever in this final argument as Mr O'Rourke frankly recognised during exchanges with the court. The aggravating factors are strong in this case as follows:

(i) The officers were acting in the course of their public duty, in fact, they were trying to prevent the appellant from harming himself;

(ii) There was the use of a deadly weapon, in fact, two significantly large knives.

(iii) The appellant was intoxicated.

(iv) There was an intention to commit more harm than resulted.

(v) There are previous convictions of a similar type.

[51] Properly analysed, we do not think the judge has made any error in relation to aggravating factors. The starting point which the judge reached was entirely appropriate, at four and a half years. From this he allowed a full reduction of 33% for

the plea. Furthermore, he did consider the mental health context and the defendant's efforts at rehabilitation. To be clear, if these features were not present, we think that a starting point higher than four and a half years could have been applied in this case. We dismiss this ground of appeal.

Conclusion

[52] Ultimately, the sentence of three years split equally between custody and licence is proportionate to the issues that arise in this case and is not a sentence that we think is wrong in law or manifestly excessive. This type of behaviour should not be tolerated or normalised and justified as something that police officers simply have to tolerate in the exercise of their duty. Rather, this sentence should be a signal to those who offend against police in this way that they will be appropriately punished by the courts.

[53] Accordingly, in all of the circumstances, we dismiss the appeal.