

IN THE COUNTY COURT OF VICTORIA
AT MELBOURNE
CRIMINAL DIVISION

Revised
Not Restricted
Suitable for Publication

Case No. CR-19-01034
CR-19-01033

DIRECTOR OF PUBLIC PROSECUTIONS

v

ELDEA TEUIRA
AND
TEIRA BENNETT

JUDGE: HER HONOUR JUDGE GAYNOR
WHERE HELD: Melbourne
DATE OF HEARING: 12 May 2020
DATE OF SENTENCE: 3 June 2020
CASE MAY BE CITED AS: DPP v Teuira & Anor
MEDIUM NEUTRAL CITATION: [2020] VCC 737

REASONS FOR SENTENCE

Subject: CRIMINAL LAW
Catchwords:
Legislation Cited:
Cases Cited:
Sentence:

| <u>APPEARANCES:</u> | <u>Counsel</u> | <u>Solicitors</u> |
|-------------------------|----------------|-----------------------------------|
| For the DPP | Ms Churchill | Solicitor for Public Prosecutions |
| For the Accused Teuira | Mr S Moglia | Doogue and George Lawyers |
| For the Accused Bennett | Ms J Munster | Victorian Legal Aid |

HER HONOUR:

- 1 Eldea Teuira and Teira Bennett, you have each pleaded guilty before me to one charge of Intentionally Causing Serious Injury in circumstances of Gross Violence and one charge of Recklessly Causing Injury. The facts underlying your offending are as follows.
- 2 The two of you were serving sentences at Barwon Prison. On 11 February 2019 at about 3.40 in the afternoon, you seriously assaulted another prisoner, Antonios (Tony) Mokbel, in the mainstream exercise yard at the prison. It is the prosecution case that the two of you reached an agreement to intentionally cause serious injury to Mr Mokbel and then carried out that assault together. During the assault, you, Eldea Teuira, also stabbed another prisoner named Logan. You were each 21 at the time of the offending. Indeed, Teira Bennett, it was your 21st birthday. Mr Mokbel was then aged 53.
- 3 The entire incident was captured on the gaol's security CCTV system and the footage played in court during the plea hearing.
- 4 The day before the assault, the "Herald-Sun" published an article entitled "Tony the Enforcer", which described Mr Mokbel as being a feared "prison big wig" and a "top enforcer" inside Barwon Prison. The article also asserted Mr Mokbel had disrupted an extortion racket within the gaol run by a group of prisoners of Pacific Islander descent. You are both of Pacific Islander descent. As a result, Mr Mokbel was spoken to in his cell by prison authorities but told them that he had no concern and said the article was "just someone out to make money". Additional staff were added to the prison mainstream areas, but there were no incidents involving Mr Mokbel that day.
- 5 The next day, 11 February, was as I have said, your birthday, Teira Bennett, and a party was organised by other prisoners on the grass area outside your unit beginning at 2.30pm. Mr Mokbel arrived at the party about two minutes later and handed you a piece of paper. Soon after, you, Eldea Teuira, arrived

- at the party and spoke with you, Teira Bennett.
- 6 You Teira Bennett then went towards Eucalypt Unit and appeared to be reading the piece of paper from Mr Mokbel as you headed towards your cell. You briefly entered your cell then re-joined the party, where you found Mr Mokbel and briefly embraced him. Mr Mokbel left the party at about 2.39pm and went to his unit to collect a folder before going to the Visitor Centre. As Mr Mokbel moved away, the CCTV footage showed the two of you again talking together.
- 7 The party finished at 2.45pm and you both stayed outside with others near the tennis court area, then returned briefly to your unit, Eldea Teira, before returning to that area where the two of you began walking up and down.
- 8 At 3.29pm, Mr Mokbel finished his business and started back to the mainstream compound, entering the yard at 3.40pm and walking towards his unit. The two of you appeared to watch him, then make your way towards him. There were still a good number of other prisoners in the yard. CCTV footage then showed the two of you walking close to Mr Mokbel and then without warning, you, Teira Bennett, punched him to the head with a clenched right fist. The force of the punch sent Mr Mokbel backwards, and he landed on the concrete path which seemed to render him unconscious. You, Eldea Teira, pulled a out shiv, a prison-made knife, from your shorts, crouched over him and began stabbing in a frenzied motion up to seven times. As this was going on, you, Teira Bennett, kicked Mr Mokbel's head three times. After this, you Eldea Teira, punched Mr Mokbel to the face as other prisoners tried to intervene. As you pushed another prisoner, Logan, away, you Eldea Teira, stabbed him to the side of his torso. Meanwhile, you, Teira Bennett, took out a shiv from the front of your pants and ran around to Mr Mokbel's other side, lifted him up and struck him in the upper shoulder area. Mr Mokbel did not move from the time of the first punch and could not defend himself throughout the assault.

9 Prison officers ran towards the scene and one prison officer, Mr Hinkley, saw a red-handled object, later identified as a shiv, in your hands, Eldea Teuira. As he approached you, Prison Officer Hinkley yelled at you both to move away, but saw you, Teira Bennett, continue to strike Mr Mokbel. He heard you yelling “you’re not an enforcer, this is what you get for talking to the screws you fucking dog.” Another officer heard you say “you think you are an enforcer, well you are fucking not you cunt.” A second prison officer, Mr Heron, saw a blue and white object in your hands, Teira Bennett, and yelled at you to drop it, which you did. It was discovered that that was also a shiv. As Prison Officer Hinkley reached Mr Mokbel, he pushed you, Teira Bennett, out of the way. He saw a large amount of blood and that some of Mr Mokbel’s teeth had been knocked out. He put handcuffs on you, Teira Bennett, and heard you say to Eldea Teuira “throw it away, throw it away, cuss”. You, Eldea Teuira, then threw the red-handled shiv about 2 to 3 metres away from where you were standing. You, Teira Bennett, ignored repeated requests to get on the ground and were eventually brought down by Prison Officer Hinkley who heard you yell “G-Fam” and “well done, cuss, G-Fam”. You, Eldea Teuira, responded with “yeah, happy birthday bro”. G-Fam is the name the Pacific Islander prisoners use for their prisoner group. Other prison officers then handcuffed you, Eldea Teuira, and brought you down after you too ignored requests to get on the ground.

10 An ambulance was called and Mr Mokbel was attended to by other prison officers and then paramedics, while prisoner Logan was observed to have suffered a single puncture wound on his left side rib area. He told Prison Officer Heron he had been stabbed while trying to help Mr Mokbel but would not say who it was. Police officers located three shivs from the scene. Two of the shivs were made from sharpened wire and a third from a fork. The DNA of both of you was located on all three weapons.

11 Paramedics attending Mr Mokbel found he had three chest wounds, black

eyes on both sides, a large mass to the back of his head, extensive bleeding, and reduced consciousness, He had to be oxygenated due to a collapsed right lung. He was airlifted to the Royal Melbourne Hospital in a critical condition and there underwent an emergency procedure after being placed in an induced coma. He was diagnosed with the following injuries: displacement of brain tissue; a fractured skull, extending down to his right eye socket; a broken jaw; and a pneumothorax of his right lung.

12 Mr Mokbel underwent numerous treatments for his injuries, including emergency brain surgery and internal fixation for his facial fractures. He was admitted to intensive care and remained in a coma until 16 February 2019. His recovery was then complicated by a lung infection. He was discharged from the Royal Melbourne Hospital on 19 February and transferred to St Vincent's Hospital for ongoing care. His injuries were assessed as serious and life-threatening and it is the prosecution case that without the swift response of emergency intervention, he would have died from the injuries you inflicted upon him.

13 At St Vincent's Hospital, Mr Mokbel was admitted as a neurological inpatient and monitored by specialists while undergoing rehabilitation for cognitive impairments following the brain injury he received. Mr Mokbel showed signs of cognitive impairment in the way he spoke, what is described as tangential conversation, and reduced executive function; that is, in planning and problem solving, abstract thought and verbal reasoning. Following rehabilitation, testing showed improvements in all areas of cognition and he was discharged from the hospital on 9 April 2019.

14 Both of you declined to be interviewed by police. The matter resolved into a plea of guilty at a second committal mention hearing on 29 May 2019; that is, there was a very early plea of guilty by each of you and no witnesses had to be called.

- 15 Your actions in attacking Mr Mokbel underlie the charge of Intentionally Causing Serious Injury in circumstances of Gross Violence. The stabbing of Mr Logan underlies the charges of Recklessly Causing injury – by your direct action Eldea Teuira and by your complicity in the overall attack Tiera Bennett.
- 16 The maximum penalty for Causing Serious Injury Intentionally in circumstances of Gross Violence is 20 years’ imprisonment. The maximum penalty for Recklessly Causing Injury is five years’ imprisonment. Section 10 of the *Sentencing Act* requires a court to impose a mandatory minimum non-parole period of four years’ imprisonment in relation to Charge 1, the charge of intentionally Causing Serious Injury in circumstances of Gross Violence, unless legislatively defined “special reasons” exist.
- 17 Neither Mr Mokbel nor Mr Logan provided statements to assist police in this matter, or compiled Victim Impact Statements.
- 18 I was informed at the first plea hearing of this matter on 13 December 2019 that Mr Mokbel has apparently recovered from his injuries.
- 19 I now turn to your personal circumstances, beginning with you, Teira Bennett.
- 20 You are 21 years old and have been in adult custody since you were 18. You were reluctant to provide details of your background, but instructed your counsel to direct me to the personal history outlined by her Honour Judge Cannon on August 21 2017 when she sentenced you the term you were serving when you attacked Mr Mokbel. Her Honour sentenced you to a total effective sentence of six years and two months’ imprisonment, with a non-parole period of three years after you pleaded guilty to four charges of armed robbery, one charge of attempted armed robbery, two charges of criminal damage, two charges of burglary, one charge of aggravated home invasion, one charge of reckless conduct endangering serious injury, one charge of attempted theft, and one charge of handling stolen goods, together with summary charges including three charges of unlawful assault, one charge of

possessing a prohibited weapon, and one charge of unlicensed driving. You conducted a confessional record of Interview with police in that case which led to your first appearance in court. Those charges make up the bulk of your previous criminal history.

21 They related to a spree of offending, including violent offending carried out by you and your associates between 7 and 27 December 2016. You all stole cars which were then used in armed robberies carried out at a petrol station and on people you held up in the street, during which you were armed with a knife. The offending also included an aggravated home invasion where you and others broke into a house while the occupants were asleep and took keys to their cars, which you drove away. A charge of reckless conduct endangering serious injury occurred when a victim, whose backpack was stolen from his truck, tried to grab hold of it as you drove away, and he was dragged along the ground beside the stolen car you were driving for approximately 10 metres. On 30 January 2018, a Magistrates' Court sentenced you to a further six months' imprisonment on charges of theft and serious driving offences which were also committed in 2016 but before your arrest in December. Two months of that sentence was ordered to be served in addition to the sentence imposed by her Honour. Finally, on 19 March 2018, you were sentenced to a two month concurrent sentence on a charge of robbery which you committed while you were on bail in early 2017.

22 Referring to her Honour's sentencing remarks you were born in New Zealand and your parents separated when you were three. You have a sister from that union. After the separation, you had limited contact with your biological father. Your mother re-partnered with your stepfather, who effectively became your father and you see him as your true dad. You have three younger half siblings. Your mother and stepfather worked hard, but struggled financially in New Zealand, living in a rough neighbourhood with violent gangs, but they protected you from their influence and did not then start offending.

- 23 In 2010, when you were 11 or 12, your family relocated to Brisbane where you all apparently enjoyed a good life and you completed Year 12. Your family moved to Victoria partway through your final year. Your teachers in Queensland, according to Judge Cannon, were so impressed with your commitment to study that they allowed you to complete Year 12 via correspondence which was an exception to their usual rule.
- 24 At the end of Year 12, you flew to Brisbane so you could graduate with your class. Back in Victoria you worked in a fast food outlet then took up a roof tiling apprenticeship which continued until 2016 when you quit due to drug use which had overtaken you. As I understand it, your mother and stepfather were strict and anxious to protect you from negative influences, but once you turned 18, they took the view you should have more freedom. Unfortunately, some of your close friends were already involved in heavy drug use and criminal offending and your closest friend started selling ice. He introduced you to that drug and you became addicted in a matter of weeks, and then to the point that you were unable to continue your employment, and you left your job in the middle of 2016.
- 25 You committed your first batch of offending on 23 August 2016, but were not arrested and charged until October 2016 and you were then bailed. In December 2016, you engaged in the spree of offending for which Judge Cannon sentenced at which time your ice use had increased to 3.5 grams a day, indicating a very serious, heavy and expensive drug addiction.
- 26 When your life began to unravel, your parents decided to return to Brisbane with you to escape the negative contacts you had made here in Victoria, planning the move for early 2017. However, as Judge Cannon stated, this was too late for you as you were remanded in custody before they could take you there. Your family, who I understand are hardworking, responsible and pro-social people, were committed to moving back to Brisbane and did this in January 2017 while you were still on remand. They left your sister in Victoria

for a few weeks to give you some support, but then she too had to move back to Brisbane.

27 You were granted bail on 17 January 2017, but this was breached when you reoffended. At that time, you were living with your grandfather in Healesville, but your relationship with him broke down and you left his home, committing further offences while on bail and relapsing into drug use in the process.

28 Life has not gone smoothly for you within the prison system, and you have been charged on occasion with prison offences such as possession of a prohibited item and then placed in management units and solitary confinement. At the time of this offending, you had been reassessed for placement in an intermediate regime at Barwon prison. You were in a unit where you were let out six hours a day and you were a head billet – a position of trust in the gaol. Immediately following this offending, you were placed back in a management unit with greatly limited access to programs and education, and very restricted hours of release from your cell; the situation being as at 13 December 2019, that you were let out for exercise only one and a half hours a day

29 You are currently being held at Barwon Acacia Unit where you are confined to your cell for 22 hours each day, being let out for two one-hour blocks during the 24 hour cycle. You have been told that because of your good behaviour in Acacia, you may eventually get more “run-out” hours than at present. You are currently on the waiting list to be appointed as billet when that position comes up. You had also placed yourself on a waiting list for an IT course, but because of COVID-19 restrictions, most education and training programs have stopped.

30 On the further plea in this matter held on 12 May this year, your counsel told me you that your family, while disappointed in your actions, do continue to support you and you maintain regular telephone contact with them. Also due

to COVID-19 restrictions, you can no longer receive any physical visits.

31 You have received documentation from Border Force indicating your visa either has been or will be cancelled and you will be deported to New Zealand at the end of your sentence. You have not sought revocation of the cancellation decision. You have lived in Australia since you were 11 years old and have no immediate family in New Zealand. Deportation will separate you from all familial and social supports, and your counsel told me this weighs heavily upon you and will continue to weigh heavily upon you throughout your time in custody.

32 I now turn to you, Eldea Teuira.

33 You are now 22 years of age and were born in Australia, the middle of five children. Your parents migrated to Australia from the Cook Islands in 1988 when your father obtained carpentry work here. He went on to work in various trade positions and factory work, and now both your parents work in security. You described to psychologist, Carla Ferrari, whose report and evidence was received on the plea, some violence between your parents when your father was drunk, but said that overall your family relationships were close and that your childhood was happy until the family returned to live in the Cook Islands in 2006 when you were about eight. Your parents stayed there for two years. You spent much of your time with older cousins who exposed you to alcohol and substance abuse, often leading to delinquent behaviour and criminal offending. You were then the subject of a serious assault by a family friend. You told your parents, who reported the matter to police but then decided not to press charges. You told Ms Ferrari this event dramatically changed your life and you were keen to return to Australia the next year to live in the care of your older sister while your parents stayed in the Cook Islands. However the assault affected your behaviour, which deteriorated once you returned here and you began acting out, getting into trouble at school and coming to the attention of police. Eventually, your sister contacted your parents to return as

- she could no longer manage you alone.
- 34 You had been a good student before the Cook Island incident but lost interest, and after your return to Australia you were expelled halfway through Year 7 for behavioural issues and stealing from other students. You then attended an alternative education school but were expelled for smoking cannabis. You also began offending, first appearing in Children's Court in 2012 and were eventually detained in a Youth Justice Centre in 2013 for car theft and armed robbery. You left school after this and your drug and alcohol use simply increased and became more serious.
- 35 You told Ms Ferrari that your cousins in the Cook Islands gave you alcohol when you were only eight. You then began using alcohol regularly from about age 12 to 13, to the point that, when out of custody, you would drink a bottle of spirits a day. You began using cannabis from age 13, using daily between the ages 14 to 16. You then replaced cannabis with methamphetamine or ice at first on a weekend basis and occasionally used cocaine. You also began using buprenorphine which was first administered to you in custody, but then abused by you in the illegal market inside gaol, estimating that you were using half a strip per day at the time of this offending. You underwent alcohol and drug counselling as part of your detention in Malmsbury Youth Justice Centre, but relapsed promptly once you were released.
- 36 You have an extensive criminal history, beginning as I said in September 2012 when you were dealt with at the Broadmeadows Children's Court for assaulting police, being drunk in a public place, and possessing a dangerous article. You were placed on a good behaviour bond. Your offending continued unabated and between then and 2015 you appeared in the Children's Court for offences including burglary, theft, recklessly causing injury, robbery, armed robbery, driving offences, wilful damage, theft of a motor vehicle, entering a building with intent to steal, unlawful assault and indecent assault. Throughout that time you regularly breached rehabilitative non-custodial

- orders from the Children's Court and finally in October 2013, you were detained in a Youth Justice Centre for nine months for motor vehicle theft, reckless conduct endangering serious injury and armed robbery.
- 37 Your offending continued – in December 2014 you were again dealt with in the Children's Court for armed robbery, motor vehicle theft, making a threat to kill, driving in a manner dangerous, shoplifting and driving offences and then on June 17 2016 you were detained in a Youth Justice Centre for three years for theft of motor vehicles, shop theft and driving offences, further thefts, armed robbery, assault, attempted burglary and criminal damage. By this stage you were about 18.
- 38 Then on November 3, 2017 His Honour Judge Gamble of this court sentenced you to a total effective term of five years and 10 months, with a minimum term of three years and six months for 24 charges including three charges of armed robbery, attempted theft, assault with a weapon, possession of an imitation firearm, intentionally causing injury, driving offences, negligently dealing with the proceeds of crime, and driving in a manner dangerous.
- 39 I was provided with a copy of His Honour's sentencing remarks as well as the prosecution summary of the offending opened on the plea in that matter. That offending occurred between 9 and 16 March 2017, when you and co-offenders stole motor vehicles, which were then used in a series of brazen armed robberies on people in the street, a taxi driver and his passengers, whom you pulled up next to in a stolen car, and a man standing outside a nightclub. The offending also included violent criminal damage, comprising the sledge-hammering of a supermarket's glass sliding doors, and driving a car into the front glass doors of a 7-Eleven in Footscray West. When you were finally apprehended you told police in your Record of Interview that you had little memory of the incidents because you had been on a spree of alcohol cocaine and ice abuse.

40 I note that you too, Mr Teuira, are being held in management conditions, that you too have very limited time outside your cell and that all programs, billet positions and training and exercise are further denied to you by the COVID-19 restrictions prevailing at the jail.

41 At the further plea hearing in May this year, your counsel submitted that pursuant to s10A(2)(c)(i) of the *Sentencing Act*, I should find that a special reason exists such that I should not impose the mandatory minimum term of four years' imprisonment in your case. This was based on the finding by psychologist, Carla Ferrari, that you suffer a Post-Traumatic Stress Disorder (PTSD). Ms Ferrari gave evidence that this disorder had been triggered the day before your attack on Mr Mokbel, by your family's failure to visit you at the prison as expected. This, she said, in effect enlivened a long-held sense of abandonment linked to the development of the Post-Traumatic Stress Disorder, which she said arose after the assault in the Cook Islands. She stated in her report, and in evidence that you reported having little recollection of the sequence of events related to the offending against Mr Mokbel and feeling extremely overwhelmed and angry which, to some extent, caused you to lose control and hence engage in the offending against him.

42 Pursuant to that section Act if an offender proves, on the balance of probabilities, that at the time of the commission of an offence, he or she had impaired mental functioning that is causally linked to the commission of the offence and substantially reduces the offender's culpability, a special reason exists so that the mandatory minimum term need not apply.

43 Your counsel submitted that I should find that there was such a nexus between your ongoing psychological condition and the offending. I note that Ms Ferrari also diagnosed you as suffering from a longstanding Persistent Depressive Disorder and a Major Depressive Disorder which she described as a "double depression" and which she said was also causally linked to your attack upon Mr Mokbel. In her report she said that offending could be "partially

linked” to your psychological disorders.

44 I do not accept that submission. It was conceded by counsel for both of you that there was an amount of planning to this attack on Mr Mokbel. Whilst I accept that planning may have been relatively unsophisticated and not of long duration, I do not accept the offending was impulsive. I am satisfied that this offending was committed as a direct response to the “Herald-Sun” article claim that Mr Mokbel held a top dog position in the jail and over the Islander prisoner group. I am satisfied the attack was carried out to assert the dominance of “G-Fam” group to which you belonged. It seems to me highly likely the two of you were selected, or volunteered, to represent that group in the attack on Mokbel. The attack was sufficiently organised that prison-made weapons, which must have taken some time to create, were provided for use by you, and that your actions on the day were entirely deliberate, the result, as I have said, of some pre-planning. I do not accept that your family’s failure to visit triggered emotions related to your psychological conditions which caused you to participate in this frenzied but planned attack Mr Mokbel the next day.

45 Your counsel further submitted that Ms Ferrari’s diagnoses of PTSD, Persistent Depressive Disorder and Major Depressive Disorder meant you suffered impaired mental functioning which would result in you being subject to “substantially and materially greater than the ordinary burden or risks of imprisonment” pursuant to s10A(2)(c)(ii) of the Sentencing Act. If I find that to be so again this also amounts to a special reason providing an exemption to the mandatory minimum four- year term of imprisonment that must otherwise be imposed on Charge 1.

46 I am satisfied you do suffer from those conditions and that they do meet the definition of “impaired mental functioning” as defined by S4 of the Mental Health Act- that is, “a mental condition that is characterised by a significant disturbance of thought mood perception or memory.” I note that you have a history of suicide attempts, that you were self- harming by cutting yourself at

the time Ms Ferrari visited you, that your mental health difficulties are longstanding and continuing and I accept her opinion that you are likely to experience the prison environment as more onerous a setting which will “provoke and aggravate your symptoms and the risk of further mental deterioration.” In other words I am satisfied to the requisite standard that you meet the criteria amounting to this special reason such that I am not bound by the mandatory minimum in sentencing you.

47 But in my view a minimum term of four years, whether mandatory or not, is simply too low a sentence for this offending. Also in my view the high objective gravity of this offending together with other factors that I must take into account and which I will shortly outline, mean that the current non-parole periods of each of you should be increased by more than four years.

48 This was extraordinarily serious offending. The injuries you both inflicted were life threatening and I accept that without appropriate attention, Mr Mokbel, would have died. The attack upon him was brazen, with no attempt at concealment and carried out in full view of prison officers and other prisoners in the yard. I am satisfied it was carried out to demonstrate the superior position of the Islander prisoner group within the prison, and over Mr Mokbel in particular. I accept that this offending was aggravated by the fact that it was carried out in a prison where hundreds of people are lodged in trying, difficult and dangerous circumstances and yet where it is of utmost importance that they be kept safe. This is an inherently difficult objective to achieve and courts must do what they can to support it.

49 In sentencing you I must take into account protection of the community, which in this case is the community of prisoners. The principle of general deterrence is also particularly important because it is imperative that prisoners understand that engaging in grossly violent, life-threatening behaviour within the gaol environment will not be tolerated. Denunciation of your conduct is also a necessary part of the sentencing exercise.

50 In sentencing you, I take into account the fact that each of you pleaded guilty at the earliest stage, saving the community the time and expense of a trial and witnesses the trauma of giving evidence and being cross-examined. However, I note that the entire incident was recorded on security camera footage and witnessed by prison officers so that the plea was made in the face of an extremely strong prosecution case, however reluctant the victims themselves may have been in assisting police.

51 There is no evidence of remorse by either of you beyond your pleas of guilty you, Mr Teuira, telling Ms Ferrari that you felt that the attack against Mr Mokbel was deserved to a degree, although you would not give her reasons for this. You did indicate some remorse for stabbing Mr Logan. As I said, however, you both entered an early plea and are entitled to the utilitarian discount for this.

52 Despite your young ages - you are each of an age where at law you are regarded as youthful offenders for sentencing purposes - the two of you were serving sentences terms for serious, violent offending fuelled by drug and alcohol problems effectively raging out of control. You were both, I am satisfied, dangerous offenders at the time each of you were sentenced to the terms that placed you in adult custody.

53 In my view, the circumstances of this attack makes it clear your prison terms had little effect on the dangerous lawless bravado and lack of concern for consequences you each displayed in your previous offending, and you enthusiastically engaged in this horrendously violent attack upon Mr Mokbel on behalf of your prison family.

54 This makes it very hard to be optimistic about your prospects of rehabilitation. It also means that specific deterrence, that is sentencing designed to put you off future violent offending is also a relevant sentencing factor.

55 Having said this, I must take into account your young ages. You Mr Bennet

are only 21, and you Mr Teuira 22. It is tragic to see two young lives already crashing so dramatically off the rails. Courts always aim to keep young offenders out of adult imprisonment as long as possible, because of their vulnerability to the heavily negative influences of adult prison. But sometimes the offending of young men such as yourself is so violent and so dangerous, and the need to protect the community so high there is no other course. You were already serving substantial sentences for serious offending when you committed this appalling attack which I am satisfied was a high end example of a grave crime.

56 However the youth of each of you means that despite the violence of your previous and current offending, I must fashion a sentence which does take into account your youth, the fact that you effectively have your lives before you and allows some hope that each of you can rehabilitate.

57 I must also consider the principle of totality, that is, because I must impose an additional sentence to the term you are each now serving I must ensure the combination of sentences properly reflects the overall criminality displayed but which is not crushing.

58 I also accept that the COVID-19 restrictions on programs and facilities within the prison system are making life harder for prisoners overall. Additionally prisoners are currently prevented from making personal contact with family and friends which must be regarded as a particular hardship. These are factors I also take into account. The submission by your counsel to the effect that if the virus reaches a gaol the living conditions mean prisoners are more likely to contract it hence adding to the their anxiety, I do take into account. However the current low rates of infection in Victoria and the lessened danger of the virus to you due to your youth and healthy physical conditions means this factor has less effect.

59 I also accept that as a result of this in-prison attack you will be both subjected

to a stricter and more restricted management regime for at least the foreseeable future which will amount to the service of harder time.

60 I accept that you each continue to enjoy the ongoing support of your families which is again especially important in the case of youthful offenders.

61 The prosecution submitted I sentence each of you to similar terms. I agree with this submission. You each played active roles in the ferocious and grossly violent attack on Mr Mokbel. You, Mr Teuira, do suffer significant psychological conditions which I accept make prison more burdensome for you, which Mr Bennett does not. At the same time, it was you who stabbed Mr Logan and you also have a much more extensive prior criminal history.

62 In your case, Mr Bennett, I also take into account the fact that the prospect of deportation on your release to a country where you have not lived since you were a child, with no real supports and away from your family will add emotional distress to your prison term.

63 Taking into account all the factors I have outlined I therefore sentence each of you as follows.

64 On charge 1 Intentionally Causing Serious Injury in circumstances of Gross Violence you are each sentenced to nine years and nine months' imprisonment.

65 On charge 2 Recklessly Causing Injury you are each sentenced to 12 months imprisonment. I order that three months of that sentence be served cumulatively to the sentence on charge one giving a total effective sentence of ten years.

66 I order that you each serve seven years of that sentence before becoming eligible for parole.

67 I order that five years of the sentence I have imposed be served cumulatively

to the sentences you are currently undergoing.

68 In your case Mr Bennet this means you are now sentenced to a new head sentence of 11 years and two months and I order you serve a minimum term of eight years before becoming eligible for parole. You have already completed your previous non-parole period. I order that this sentence be backdated to commence from August 21 2017 when you were sentenced by Judge Cannon. I declare you have already served 169 days by way of pre-sentence detention.

69 You Mr Teuira are now sentenced to a new head term of ten years and ten months imprisonment and I order a new non parole period of eight years and six months. I order that this sentence be backdated to commence from November 3 2017 when you were sentenced by Judge Gamble. His Honour on that occasion ordered some concurrency with the Youth Justice Centre detention you were then undergoing and so no pre-sentence detention applies in your case.

70 Pursuant to S6AAA of the Sentencing Act I declare that had you not pleaded guilty I would have sentenced each of you to a term of 11 years and six months with a non-parole period of 9 years and 6 months, and ordered cumulation of six and a half years to the sentences you are currently undergoing.