IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2023] SGHC 204

Magistrate's Appeal No 9220 of 2022/01

Between

Public Prosecutor

… *Appellant*

And

Soo Cheow Wee

… *Respondent*

Magistrate's Appeal No 9220 of 2022/02

Between

Soo Cheow Wee

… *Appellant*

And

Public Prosecutor

… *Respondent*

JUDGMENT

[Criminal Procedure and Sentencing — Sentencing — Mentally disordered offenders]

Public Prosecutor
v
Soo Cheow Wee and another appeal

[2023] SGHC 204

General Division of the High Court — Magistrate's Appeal No 9220 of 2022
Sundaresh Menon CJ
18 April, 31 July 2023

31 July 2023 Judgment reserved.

Sundaresh Menon CJ:

1 The present cross-appeals ("MA 9220") involve an offender with a history of schizophrenia who suffers from polysubstance dependence and psychosis. It is common ground between the parties that the offender was experiencing an episode of psychosis when he committed the offences in question. The key question that arises in MA 9220 is the impact of the offender's mental conditions on the appropriate sentence. In this regard, while the psychiatric evidence clearly showed that the offender suffered from the mental conditions mentioned, a number of issues were not adequately addressed in the evidence that was before me. In particular, these include the precise connection between the offender's polysubstance dependence and his psychosis; and the extent to which the offender had *insight* into his conditions and in particular, his awareness and understanding of the apparent link between his substance abuse, his psychosis and his violent behaviour.

2 I heard the parties on 18 April 2023 (the "18 April Hearing") and highlighted some potential gaps in the evidence to them. Although the parties were given the opportunity to adduce further evidence to fill these gaps, they indicated that they wished to proceed with MA 9220 on the evidence as it stood. I did emphasise, however, that where there were gaps in the evidence, any doubt may be resolved in favour of the defence, and this was acknowledged by the Prosecution.

3 Having considered the arguments that were presented and based on the evidence that was before me, I dismiss the Prosecution's appeal and allow in part the accused person's appeal, in that I reduce the aggregate sentence of 33 months' imprisonment that was imposed by the District Judge (the "DJ") to 27 months' imprisonment. I do so for the primary reason that at the urging of the Prosecution, the DJ placed no weight on the offender's mental conditions in calibrating the sentence. In this judgment, I take the opportunity to consider in greater detail: (a) the principles governing the sentencing of an offender with multiple mental conditions; and (b) the importance of psychiatric evidence to a sentencing court faced with an offender who suffers from a mental condition.

Background

4 I begin with some background.

5 The offender, Mr Soo Cheow Wee (the "Appellant"), is a 50-year-old Singaporean male. Although both the Prosecution and the Defence have appealed against the decision of the DJ, for convenience, I refer to Mr Soo as the Appellant. The Appellant faced eight charges before the DJ, four of which he pleaded guilty to and four of which were taken into consideration for the purpose of sentencing. The details of the four proceeded charges are as follows:

(a) committing an offence punishable under s 324 of the Penal Code 1871 (2020 Rev Ed) ("Penal Code") (voluntarily causing hurt by dangerous weapons or means) by slashing the hand of Mr Wong Wei Jie ("Mr Wong"), with a knife and causing him to suffer a right hand traumatic laceration on 17 February 2022 at about 8.40pm at Block 420A Clementi Avenue 1 (the "First Charge");

(b) committing an offence punishable under s 506 of the Penal Code (criminal intimidation) by charging towards a police officer, Mr Tan Chuan Zhen, while brandishing a knife and threatening him with grievous hurt with intent to cause alarm on 17 February 2022 at about 8.55pm at 20 Clementi Avenue 5 (the "Second Charge");

(c) committing an offence punishable under s 506 of the Penal Code (criminal intimidation) by charging at Mr Goh Wui Teck ("Mr Goh") with a knife while threatening him with grievous hurt with intent to cause alarm on 17 February 2022 at about 8.45pm along Clementi Avenue 5 (the "Third Charge"); and

(d) committing an offence punishable under s 332 of the Penal Code (Cap 224, 2008 Rev Ed) (voluntarily causing hurt to deter public servant from his duty) by punching the face of a police officer who was on duty, one Saini bin Karim, and causing him to suffer from tenderness and swelling of his left temporoparietal region on 9 June 2019 at about 6.38pm at the Kampong Java Neighbourhood Police Centre ("NPC") (the "Fourth Charge").

6 MA 9220 only relates to the First, Second and Third Charges.

Circumstances surrounding commission of the offences

7 In the proceedings below, the Prosecution tendered a Statement of Facts ("SOF"), which the Appellant admitted to without qualification. I set out the salient extracts from the SOF that relate to the First, Second and Third Charges which concern events that took place on 17 February 2022.

8 Sometime in the morning of 17 February 2022, the Appellant went to Geylang and consumed cough syrup and diazepam without a prescription. That night, the Appellant went to his mother's house located at Clementi Avenue 1 (the "Unit"). At about 8.25pm, the Appellant called the police and reported that "Someone wants to kill me and my mother. I don't know how to explain. Can you stop asking me questions". After making the phone call to the police, the Appellant took a knife that was wrapped in newspaper and left the Unit.

9 The Appellant then loitered along a pavement near the Unit. He claimed that he heard a voice telling him to slash members of the public at random, and so he waited for pedestrians to walk by.

10 At about 8.39pm, the Appellant first approached a pedestrian. He ran after the pedestrian with the knife in his hand but stopped after a short distance, and the pedestrian managed to escape unhurt. Thereafter, the Appellant rewrapped the knife with newspaper. This incident was the subject of one of the charges against the Appellant that was taken into consideration.

11 At about 8.40pm, the Appellant targeted Mr Wong, who was going on his usual evening stroll along the said pavement. When Mr Wong approached him, the Appellant suddenly took out the knife and swung it towards Mr Wong's head. Mr Wong used his hand to block the attack, resulting in the Appellant slashing Mr Wong's hand with the knife. Mr Wong immediately ran towards a

nearby supermarket and the Appellant tried to run after him for a brief period. This formed the subject of the First Charge.

12 Mr Wong was subsequently admitted to National University Hospital ("NUH") for his injuries, where he was diagnosed with right hand traumatic laceration. Mr Wong underwent right hand debridement surgery and secondary closure of the right hand under local anaesthesia.

13 After attacking Mr Wong, the Appellant continued to loiter along the pavement. When a female pedestrian walked towards him, the Appellant swung the knife in her direction, but she managed to escape unhurt. This was the subject of another charge against the Appellant that was taken into consideration.

14 The Appellant then flagged a taxi driven by Mr Goh and asked to be driven to Clementi Police Division. The journey lasted about five minutes. As the taxi was approaching the Clementi Police Division along Clementi Avenue 5, the Appellant opened the left rear passenger door and attempted to leave while the taxi was still in motion. Mr Goh immediately stopped the taxi and the Appellant fell onto the road near the kerb, and lay on the ground for a few minutes.

15 Mr Goh exited from the taxi to check on the Appellant. When Mr Goh was walking towards the Appellant, he noticed that the Appellant was holding a knife. The Appellant pointed the knife towards Mr Goh, who stepped back, but the Appellant charged at him with the knife in his hand. Mr Goh ran away and was unhurt. This formed the subject of the Third Charge.

16 Mr Goh quickly returned to his taxi and locked the doors. While Mr Goh was in the locked taxi, the Appellant pointed the knife towards Mr Goh again. Mr Goh then proceeded to drive the taxi away, making a U-turn near the entrance to the Clementi Police Division, which was about 40m away, in order to alert the police officers who were there to the situation.

17 The Appellant then turned his attention to the police officers who were on duty at the entrance to the Clementi Police Division. He walked towards them with a knife and was shouting incoherently. The police officers commanded the Appellant to stop and drop the knife, but the Appellant continued to advance forward. At about 8.55pm, the Appellant suddenly charged towards one of the police officers on duty while brandishing his knife. This formed the subject of the Second Charge.

18 Sensing an imminent threat to the lives and safety of those present, the officer fired a live round at the Appellant, which struck his left arm, causing him to fall to the ground. Due to the gunshot wound, the Appellant suffered wounds over his left arm and a humeral midshaft fracture. The Appellant was then arrested and conveyed to NUH for treatment.

19 The Fourth Charge is not strictly relevant to the present appeals as it has not been appealed against by either party. Nevertheless, I note that the Appellant was initially given a conditional warning for the Fourth Charge, but the charge was later proceeded with after he breached a Personal Protection Order.

The Appellant's mental conditions

20 The Appellant suffers from at least three mental conditions. These are: (a) schizophrenia; (b) polysubstance dependence; and (c) psychosis that is believed to be triggered by his substance abuse and which caused symptoms of

auditory hallucinations and persecutory delusions. For the purposes of this judgment, I shall refer to this last condition and its symptoms collectively as "substance-induced psychosis".

21 Three psychiatric reports prepared by the Institute of Mental Health ("IMH") provide some insight into these mental conditions. These reports were dated 12 July 2019, 12 December 2019 (both of which were prepared prior to the events that are the subject of the present appeals), and 10 March 2022 respectively (collectively, "the IMH Reports"). A Corrective Training Suitability Report dated 20 October 2022 ("CT Report") also provides relevant, albeit limited, evidence on the Appellant's mental conditions. I consider these reports in greater detail in this section.

12 July 2019 IMH Report

22 The IMH report dated 12 July 2019 ("12 July 2019 IMH Report") was prepared by Dr Lim Kai Chong Daniel ("Dr Lim") in relation to an investigation into the Fourth Charge and after the Appellant's admissions to the IMH for two separate periods from 10 to 12 June 2019, and 23 to 26 June 2019. The 12 July 2019 IMH Report also recorded the Appellant as having a history of schizophrenia and polysubstance abuse.

23 The following observations from the 12 July 2019 IMH Report are relevant:

(a) In relation to his first period of admission to the IMH between 10 June 2019 and 12 June 2019, the Appellant was assessed to have substance-induced psychosis from the cough syrup that he was abusing. The Appellant described psychotic symptoms such as auditory hallucinations and persecutory delusions. He heard voices that told him

that he could not leave the police station, and directed him to hit the police officer on 9 June 2019. His psychotic symptoms resolved by 12 June 2019, and he was subsequently discharged.

(b) In relation to his second period of admission to the IMH between 23 June 2019 and 26 June 2019, the Appellant was assessed again to have drug-induced psychosis from the cough syrup that he had consumed just three or four days prior and subsequently experienced similar psychotic symptoms. Dr Lim also noted that the Appellant described depressive symptoms such as low mood and insomnia. His psychotic symptoms resolved by 26 June 2019 and he was discharged.

24 While the 12 July 2019 IMH Report records that the Appellant was "diagnosed with [substance-induced] psychosis from the cough syrup that he was abusing", it does not provide any reasons or basis for this diagnosis. Moreover, the report also does not state whether the Appellant was *informed* or otherwise aware that his substance abuse was causally linked to the onset of his psychotic symptoms manifesting.

12 December 2019 IMH Report

25 The IMH Report dated 12 December 2019 ("12 December 2019 IMH Report") was made by Dr Lee Yu Wei ("Dr Lee"). This too was in relation to the investigation into the Fourth Charge regarding the "causality between the Appellant's mental disorder and his offending conduct". It is not clear what mental disorder Dr Lee was referring to.

26 The following observations from the 12 December 2019 IMH Report are relevant:

(a) The Appellant's first *attendance* at IMH was on 4 July 2005 for substance abuse (intravenous Subutex and Dormicum use) and he was diagnosed with Subutex and Dormicum Dependence, against a background of heroin use.

(b) The Appellant's first *admission* to IMH was in 2006, after he suffered a fall from height while having an episode related to substance-induced psychosis.

(c) Prior to 2019, there were no documented instances of the Appellant exhibiting violent behaviour after abusing substances. The 12 December 2019 IMH Report listed "some" reasons for previous admissions, though these did not appear to be exhaustive. Moreover, while the report included examples of violent acts that were previously committed by the Appellant, it does not specify whether these acts were related to the Appellant's mental conditions or whether they were preceded by the Appellant's consumption of substances. Examples of the Appellant's violent acts included hitting a security guard while intoxicated in 2012 and threatening his mother with a knife, ostensibly due to his paranoia. I do not equate the Appellant's 2012 offence of hitting a security guard while intoxicated with his acts of violent behaviour while abusing substances (the subject of the present charges) and elaborate on this distinction at [64]–[66] and [84]–[91] below. Notwithstanding these observations however, I should highlight that the CT Report records an instance where the Appellant may have exhibited violent behaviour while abusing substances. I address this below at [33].

(d) In 2019, Dr Lee noted that the Appellant had a total of five admissions between February and June. These admissions were due to auditory hallucinations associated with delusions of persecution that the

> head of a gang was going to find him and his mother and hurt them. The 12 July 2019 IMH Report also noted that his urine tested positive for opiates for at least two out of his five admissions in 2019. The details of two of these admissions were covered in the 12 July 2019 IMH Report (see [23] above).

27 In relation to the Fourth Charge, Dr Lee opined that the Appellant was suffering from substance-induced psychosis at the time of the alleged offence. Dr Lee's assessment was that the Appellant was labouring under delusions of persecution, which led him to assault the police officer in order to be apprehended because he thought that being held in police custody would protect him from his persecutors. Dr Lee thus concluded as follows:

> (a) while there was a significant contributory link between the Appellant's psychiatric condition and the alleged offence, he was cognisant of the nature and wrongness of his act and was not of unsound mind at the material time of the alleged offence;
>
> (b) the Appellant was fit to plead/enter a plea; and
>
> (c) the Appellant would benefit significantly from adherence to medication, abstinence from substances and continued follow up with his treatment team.

10 March 2022 IMH Report

28 The IMH report dated 10 March 2022 ("10 March 2022 IMH Report") was a forensic psychiatric evaluation prepared by Dr Lee Kim Huat Jason ("Dr Jason Lee") in connection with the investigation into the First to Third Charges. As highlighted at [21] above, the 10 March 2022 IMH Report was the sole Report that was prepared *after* the events that are the subject of the present

appeals. The 10 March 2022 IMH Report outlined the Appellant's medical history, IMH records, collateral information from his mother, NUH records, the Appellant's account of the alleged offences and his mental state at the time of the interview.

29 Dr Jason Lee stated that the Appellant was known to the IMH since 2005 and that he had a principal diagnosis of polysubstance dependence. While he had presented with florid psychotic features such as persecutory delusions and related auditory hallucinations in the past, these were believed to be substance-induced and not to be associated with a primary psychotic disorder such as schizophrenia.

30 In relation to the Appellant's mental state during the time of the offences in February 2022, Dr Jason Lee drew the following conclusions:

(a) The Appellant's clinical presentation was consistent with substance-induced psychosis. This was based on the Appellant's ongoing abuse of various drugs in the period preceding the offences and the quick and complete resolution of psychotic symptoms upon abstinence from those drugs.

(b) There was clear evidence that the Appellant was actively psychotic around the time of the offences, and that his hallucinations and persecutory delusions "contributed substantially to the alleged offences by impairing his judgment and impulse control".

(c) However, the Appellant would have maintained at least some degree of awareness and control of his actions due to the goal-directed nature of the alleged offences. On balance, Dr Lee opined that the Appellant was not of unsound mind at the material time of the offences.

(d) The Appellant was fit to plead in court.

(e) The Appellant would benefit from prospective follow-up and treatment for his mental health issues, including interventions for his substance abuse problem.

31 As I understand it, the effect of those findings was that the Appellant would not qualify for the defence of insanity. The findings were thus not directly concerned with the separate and distinct question of whether his mental responsibility was impaired save for the explicit finding noted at [30(b)] above, that his delusional hallucinations "contributed substantially" to the commission of the offences.

Corrective Training Suitability Report

32 In the proceedings below, the DJ also called for a corrective training ("CT") suitability report after the Appellant pleaded guilty. The CT Report was prepared by Ms Rashida Mohamed Zain ("Ms Zain"), a psychologist from the Singapore Prison Service, with a view to assessing whether the Appellant should be sentenced to a corrective training term of at least five years. I note at the outset that this is not a report inquiring into the Appellant's psychiatric condition.

33 While the CT Report highlighted that the Appellant reported an onset of psychosis in 2006, consisting of auditory hallucinations which urged him to slash at strangers with a weapon, it did not consider the possibility of the Appellant's substance-induced psychosis interacting with his other mental conditions, specifically his polysubstance dependence and schizophrenia. I note that the CT Report also listed the Appellant's past criminal history, including a conviction in 2008 for assaulting a public servant and inhalant abuse. However,

while it appeared that the Appellant was charged for these offences on the same day (see the Appellant's antecedents at [38] below), there were no details provided in the CT Report or by the parties as to whether these offences occurred on the same day or whether the Appellant's inhalant abuse had precipitated his assault on the public servant. This being the case, I am unable to determine whether there was any apparent causal link between the Appellant's inhalant abuse and his violent behaviour in 2008.

34 The CT Report also noted that when the Appellant was incarcerated in 2013, he was housed in the prison psychiatric housing unit, where he received treatment for his psychosis and learned adaptive coping ways which he then applied upon his release from prison. For instance, he would take a walk at the garden near his flat when he heard the voices, in order to relieve the stress he experienced. When the voices were too overpowering, the Appellant would accede to instructions conveyed by these voices to take a knife and walk around the neighbourhood, but then he would deliberately go to places where he thought there would be no one around in order to avoid injuring anyone. The Appellant also indicated that when his symptoms worsened, he would admit himself to IMH.

35 The Appellant indicated that the psychiatric medications prescribed to him were effective in suppressing the auditory hallucinations and he stopped hearing them whenever he was medically compliant. In this regard, the Appellant reportedly informed Ms Zain that while he was medically compliant during the time of his violent offences, he had abused cough syrup, and this preceded his auditory hallucinations becoming active. The CT Report therefore concluded that the Appellant's mental disorder predisposed him to violence and that his substance abuse would precipitate violent reoffending.

36 I pause to make three points in relation to this conclusion:

(a) First, it appears to be based on the Appellant's self-reported assessment of what had precipitated his violent behaviour and an "attached psychiatric memo" that indicated that the Appellant had substance-induced psychosis. In other words, there does not appear to have been a separate assessment undertaken at Ms Zain's request that led her to conclude that the Appellant's drug use would precipitate his violent behaviour. The "attached psychiatric memo" prepared by another psychiatrist is unhelpful, as it only states that the Appellant was of stable mental condition under medication and that he suffered from the sole mental illness of "substance-induced psychosis". There was no elaboration provided for this conclusion. In fairness to Ms Zain and as noted at [32] above, this was likely because the CT Report was *solely* to assess the Appellant's suitability for the CT regime and is *not* a report which specifically inquires into his psychiatric condition.

(b) Second, there is a difference between events occurring in a *chronological* sequence and events occurring in a *consequential* manner. While the Appellant's self-reported observations to Ms Zain supports a finding that his auditory hallucinations became active *after* he abused cough syrup, it does not go so far as to establish a *consequential* link between these events. In this regard, it is notable that there was also no separate expert evidence to establish that such a consequential link was present.

(c) Third, even if I were to assume, for the sake of argument, that there was a link between the Appellant's abuse of cough syrup and violent behaviour, it is pertinent that this observation was shared with Ms Zain *after* the offences that are the subject of the present appeals had

been committed. This is not evidence of the Appellant's *awareness* of any link between his substance abuse and violent behaviour at the time of the commission of the offences. It is not evident, for instance, whether this was the outcome of the Appellant's reflections of the event, after the fact.

37 In any case, I note that the observation apparently proffered by the Appellant (at [35] above) as to the cause of his auditory hallucinations was not relied on by the Prosecution. Instead, the Prosecution's conclusion that the Appellant's mental conditions should not be given mitigating weight was based on inferences drawn from the Appellant's antecedent history.

The Appellant's antecedents

38 I next outline the Appellant's antecedents, which can be grouped into three main categories: (a) violence-related offences; (b) drug and substance-related offences; and (c) other mischief-related offences. These are set out in the table below for ease of reference:

Type of Offence	Date of conviction/order	Offence(s)	Sentence
Violence-related	28 July 1994	Carrying offensive weapons in public	Three months' imprisonment and six strokes
	7 March 2008	One count of assaulting a public servant and two counts of inhalant abuse	Two weeks' imprisonment and $3,000 fine
	28 June 2012	Disorderly behaviour	$600 fine

Type of Offence	Date of conviction/order	Offence(s)	Sentence
Drug and substance-related	1 September 1995	Drug consumption	Six months in a Drug Rehabilitation Centre
	1 April 1997	Drug consumption	Six months in a Drug Rehabilitation Centre
	4 May 1999	Three counts of failing to report for urine test, one count of drug consumption and one count of drug possession	Five years' and 18 months' imprisonment and three strokes
	6 August 2008	Two counts of inhalant abuse and one count of theft in dwelling	Ten weeks' imprisonment
	10 October 2008	Inhalant abuse	Eight weeks' imprisonment
	4 February 2009	Inhalant abuse	Six months in an Inhalant Treatment Centre
	7 August 2009	Failing to provide blood specimen for inhalant abuse test	Three months' imprisonment
	9 December 2009	Three counts of failing to provide blood specimen for inhalant abuse test	Three months' imprisonment
	26 February 2010	Inhalant abuse	Six months in an Inhalant

Type of Offence	Date of conviction/order	Offence(s)	Sentence
			Treatment Centre
	8 September 2010	Failing to provide blood specimen for inhalant abuse test	Two months' imprisonment
	10 December 2010	Inhalant abuse	Six months in an Inhalant Treatment Centre
	26 March 2013	Drug consumption	Seven years' imprisonment and six strokes
Others	30 May 1989	Theft in dwelling	12 months' probation
	23 June 1992	Theft	$500 fine
	17 August 1996	Two counts of appearing in a public place in a state of intoxication and causing annoyance	Eight days' imprisonment
	28 March 2006	Dishonest misappropriation	Four weeks' imprisonment
	11 September 2012	Mischief	$1,000 fine

The proceedings below

The parties' cases below

39 Before the DJ, the Prosecution submitted that the Appellant should be sentenced to a CT term of at least five years, and in the alternative, an aggregate imprisonment term of 57 to 63 months' imprisonment. A key pillar of the

Prosecution's case below was that the Appellant's drug-related antecedents were relevant as an aggravating factor (GD at [15]). The Prosecution also submitted that the Appellant's mental conditions should be given *no* mitigating weight (GD at [19(iv)]). This was because the Appellant's impaired judgment and impulse control was said to be due to his substance-induced psychosis which in turn was a result of his voluntary ingestion of illicit substances. Lastly, the Prosecution also submitted that the Appellant should be placed in a structured environment such that he would not relapse into taking unprescribed substances and would take the appropriate medication to treat his various conditions.

40 Counsel for the Appellant, Mr Chooi Jing Yen ("Mr Chooi"), submitted that an aggregate sentence of not more than one year's imprisonment would be appropriate and that this was an inappropriate case for CT to be imposed. In relation to the Appellant's mental conditions, Mr Chooi submitted that the psychiatric evidence was clear that there was a contributory link between the Appellant's mental conditions and the offences. As such, the Appellant contended that he should be assessed as being less culpable than a normal person labouring under no psychiatric conditions who commits an act of random violence against a passer-by.

The decision below

41 The DJ sentenced the Appellant to an aggregate imprisonment term of 33 months. The individual and global imprisonment sentences are set out as follows:

Charge	DJ's decision
First Charge (s 324 offence)	18 months (consecutive)

Charge	DJ's decision
Second Charge (First s 506 offence)	12 months (consecutive)
Third Charge (Second s 506 offence)	12 months (concurrent)
Fourth Charge (s 332 offence)	3 months (consecutive)
Aggregate sentence	33 months

42 In coming to this decision, the DJ considered that:

(a) A sentence of corrective training would be disproportionate to the imprisonment term that would otherwise have been imposed (GD at [132]–[138]).

(b) In relation to the sentence for the First Charge, which was causing hurt by dangerous means, a sentence of 18 months' imprisonment was appropriate based on the application of the three-step approach set out in *Ng Soon Kim v Public Prosecutor* [2020] 3 SLR 1097 ("*Ng Soon Kim*").

(c) In relation to the sentences for the Second and Third Charges, which concerned criminal intimidation, the DJ considered that a sentence of 12 months' imprisonment for each of the charges, both to run concurrently, would be appropriate.

(d) In relation to the sentence for the Fourth Charge, which has not been appealed against, the DJ was of the view that a sentence of three months' imprisonment was appropriate.

Parties' cases on appeal

Prosecution's case

43 The Prosecution's case on appeal is largely the same as its case before the DJ. The Prosecution submits that the sentence imposed on the Appellant is manifestly inadequate and repeats its contention below that at least five years' CT be imposed and that this would not be disproportionate. Should a CT sentence be imposed, the Prosecution suggests that it could be backdated and that this would mitigate any hardship occasioned by the period the Appellant had spent in remand. Should a sentence of CT not be imposed, the Prosecution seeks an imprisonment term of between 57 and 63 months.

44 In any event, the Prosecution submits that emphasis should be placed on the following aggravating factors:

(a) first, that the Appellant had committed senseless, unprovoked attacks against innocent members of the public and the police;

(b) second, that the Appellant had deliberately concealed the knife in a newspaper and that he had made the deliberate decision to attack unsuspecting victims; and

(c) third and most importantly, the Appellant's drug-related and substance-related antecedents were highly relevant and justify a longer imprisonment term being imposed.

45 The Prosecution also submits that the Appellant's mental conditions should not be treated as a mitigating factor because the Appellant had voluntarily ingested the substances, knowing that it would trigger his psychosis and increase his propensity for violence. In support of this, the Prosecution points to the Appellant's criminal offending history and submits that the Appellant should have known that there was a risk that his consumption of substances would trigger his violent tendencies. There was however no evidence before me as to:

(a) which specific substances had the effect of triggering the psychotic symptoms;

(b) the nature of the interaction between the ingestion of the substances in question and the psychotic symptoms setting in. Specifically, nothing was before me to explain whether there was an inevitable link, what the time lapse would be, or whether the psychotic symptoms could arise in the absence of such substances being consumed;

(c) the tests done and the basis for the notional conclusions at [45(a)]–[45(b)] above; and

(d) what the Appellant's awareness was of these matters.

The Appellant's case

46 In relation to the First Charge, Mr Chooi submits that the DJ's sentence of 18 months' imprisonment is manifestly excessive, and that a sentence of not more than 13 months' imprisonment would be appropriate. In relation to the Second and Third Charges, Mr Chooi submits that a sentence of not more than seven months' imprisonment for each offence would be appropriate. Mr Chooi

submits that, applying the totality principle, the following sentences should be imposed instead, as these more accurately reflects the Appellant's culpability, gives effect to the sentencing considerations of deterrence and would not be crushing:

Charge	Sentence (imprisonment)
First Charge (s 324 offence)	Not more than 13 months (consecutive)
Second Charge (First s 506 offence)	Not more than 7 months (concurrent)
Third Charge (Second s 506 offence)	Not more than 7 months (consecutive)
Fourth Charge (s 332 offence)	3 months (consecutive)
Aggregate sentence	Not more than 23 months

Issues to be determined

47 As I foreshadowed at [1] above, the main question, at least as I saw it, that arises for my determination is the appropriate sentence that should be imposed on the Appellant, *given his mental conditions*. Unfortunately, neither the Prosecution nor the Appellant squarely dealt with this despite my highlighting the issue at the start of the 18 April Hearing. Consequently, I have had to contend with this issue based on the evidence before me. Mr Chooi explained that he was handicapped by his client's lack of resources. It was not clear to me that any attempt had in fact been made to obtain expert assistance even on a *pro bono* basis. In any case, Mr Chooi was also reluctant to postpone

the matter given his primary submission that the sentence should be reduced and his client had already been in remand for some time. I therefore did not seriously consider ordering an adjournment in order to supplement the evidence. The reasons for the Prosecution's reluctance to confront the issue were not clear to me, though it was clear that the Prosecution too did not wish to adjourn the matter.

48 Notwithstanding these constraints, my analysis below will proceed as follows:

(a) First, I set out the applicable principles governing the sentencing of an offender with multiple mental conditions and explain the importance of psychiatric evidence to assist the sentencing court in arriving at the appropriate sentence to be imposed.

(b) Second, I consider the Appellant's mental conditions in three stages:

(i) What does the available psychiatric evidence say about the existence, nature and severity of the Appellant's mental conditions? Moreover, is there any interaction between the mental conditions?

(ii) Is there a causal link between the Appellant's mental conditions and his offending behaviour?

(iii) Did the Appellant have insight into his mental conditions? In particular, was he was aware that: (a) his substance abuse would trigger his psychosis; and (b) his psychosis would make him susceptible to violent behaviour?

(c) Third, I outline the relevant sentencing considerations that apply in the present context.

(d) Finally, bearing in mind the appropriate weight to be attributed to the Appellant's mental conditions in light of the answers to the questions at [48(b)] above and the relevant sentencing considerations that apply, I determine the appropriate imprisonment term for the First, Second and Third Charges.

Principles governing the sentencing of an offender with multiple mental conditions

49 I begin by setting out the relevant principles that should be considered when sentencing an offender with multiple mental conditions.

50 The sentencing of a mentally disordered offender often requires the court to contend with sentencing objectives that may pull in opposite directions, with some emphasising the need to protect society and others, the importance of rehabilitating the offender where feasible (*Public Prosecutor v Goh Lee Yin and another appeal* [2008] 1 SLR 824 ("*Goh Lee Yin*") at [1]). A mental illness may potentially be a mitigating consideration if it is causally connected to the offending behaviour. If the symptoms associated with the illness are brought on by particular conduct, then it will be relevant to consider whether the offender is aware of the consequences of such conduct, including its propensity to bring about the onset of the symptoms relating to the mental condition which then leads to the offending conduct. It will also be relevant to consider whether extended incarceration offers the best prospects for rehabilitating such an offender. As observed by the High Court of Australia in *Veen v The Queen* (No 2) (1988) 164 CLR 465 at 476–477 (cited with approval by the Singapore Court of Appeal in *Public Prosecutor v Aniza bte Essa* [2009] 3 SLR(R) 327 at [70]):

> … And so a mental abnormality which makes an offender a danger to society when he is at large but which diminishes his moral culpability for a particular crime is a factor which has two countervailing effects: one which tends towards a longer custodial sentence, the other towards a shorter.

51 In light of this potentially paradoxical effect that an offender's mental condition has on sentencing, the court must carefully consider the specific facts of each case before arriving at the appropriate sentence. Where an offender suffers from multiple mental conditions, the specific facts the court should consider in determining the impact these conditions would have on sentencing would often include:

(a) the existence, nature and severity of each mental condition;

(b) the interaction between the mental conditions and in particular, the synergistic manner in which different mental conditions may come together and operate on the accused person's mind (*Roszaidi bin Osman v Public Prosecutor* [2023] 1 SLR 222 ("*Roszaidi*") at [78]);

(c) whether a causal link can be established between the conditions and the commission of the offence;

(d) the extent to which the offender had insight into his mental conditions and their effects; and

(e) whether the overall circumstances are such as to diminish the offender's culpability (*Lim Ghim Peow v Public Prosecutor* [2014] 4 SLR 1287 ("*Lim Ghim Peow*") at [25]; *Public Prosecutor v Kong Peng Yee* [2018] 2 SLR 295 ("*Kong Peng Yee*") at [60]).

52 I expand on these factors.

The existence, nature and severity of the mental condition

53 The first step in determining how an offender, who is said to be suffering from multiple mental conditions, should be sentenced would be to: (a) ascertain the existence of the mental conditions; (b) understand the nature of each condition, including its incidence and treatment options; and (c) determine the severity of the conditions. This is the foundational issue on which rests the ultimate inquiry undertaken by the court. It is only with such information that the court can meaningfully address the weight to be placed on the sentencing considerations of rehabilitation, deterrence and prevention or incapacitation as the case may be (*Goh Lee Yin* at [57]).

54 In establishing the existence, nature and severity of the offender's mental conditions, the court must limit itself to the medical evidence and guard against the influence of "a combination of conjecture and sympathy" (*Chng Yew Chin v Public Prosecutor* [2006] 4 SLR 124 at [44]). That is why it will usually be a matter of paramount importance to adduce expert evidence addressing the existence, nature and severity of the accused person's psychiatric condition. Where the psychiatric report does not show the offender to be suffering from a clearly diagnosed and recognised psychiatric disorder, the court would be justified in disregarding the offender's purported mental condition as a relevant factor in sentencing (*Goh Lee Yin* at [82]). Accordingly, it is important that the psychiatric evidence be cogent and put forward by experts who are objective and impartial (*Ng So Kuen Connie v Public Prosecutor* [2003] 3 SLR(R) 178 ("*Connie Ng*") at [59]–[61]).

55 As a guide, I find useful the view expressed by the learned authors of Kow Keng Siong, *Sentencing Principles in Singapore* (Academy Publishing, 2nd Ed, 2019) at para 18.153 as to the type of inquiries that should be addressed

in a psychiatric report pertaining to an offender's mental condition. These may include the following questions:

(a) What is the nature and severity of the offender's mental condition?

(b) Is there a causal link between the offender's mental condition and the commission of the offence?

(c) Could the offender have prevented the onset of the particular symptoms leading to the commission of the offence? And was the offender sufficiently aware of his condition and of how he could have prevented the onset of these symptoms?

(d) Could the offender have exercised control over his actions at the time of the offence?

(e) Does the mental condition make the offender prone to reoffending?

(f) Does the mental condition make the offender dangerous to other around him?

(g) Can the mental condition be treated or controlled and if so, how and under what conditions?

56 The questions highlighted above are not intended to be exhaustive, but are merely to guide future psychiatric reports that may be prepared, so that these may better assist the sentencing court when it considers the issues outlined at [51] above.

The interaction between the mental conditions

57 After establishing the existence, nature and severity of each mental condition, the sentencing court may also have to consider the possible *interaction* between the offender's mental conditions (where there is more than one operating condition). The focus of this inquiry is to determine whether the offender's mental conditions were compounded such that the combined effect the conditions had on the offender's mind was greater than or different from the sum of the parts.

58 The courts have considered the operation of multiple mental disorders on an accused person's mind in the context of s 33B(3)(*b*) of the Misuse of Drugs Act 1973 (2020 Rev Ed) (the "MDA"). In that context, the accused would have to establish that: (a) he was suffering from an abnormality of mind; (b) the abnormality of mind arose from: (i) a condition of arrested or retarded development of mind, (ii) any inherent causes, or (iii) was induced by disease or injury; and (c) the abnormality of mind substantially impaired his mental responsibility for his acts and omissions in relation to his offence. In considering this, the courts have examined the *synergistic* manner in which different mental disorders may come together and operate on the accused person's mind. I illustrate this with reference to two recent decisions that show the potential significance of the interaction between the offender's mental conditions in relation to the eventual sentence imposed.

59 In *Phua Han Chuan Jeffery v Public Prosecutor* [2016] 3 SLR 706 ("*Jeffery Phua*"), the applicant had been convicted and sentenced to death for importing diamorphine. He applied to be re-sentenced under s 33B(1)(*b*) of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) ("2008 MDA"). The question was whether the applicant suffered from an abnormality of mind that substantially

impaired his mental responsibility for the offence, as required under s 33B(3)(*b*) of the 2008 MDA. The High Court Judge considered that the applicant suffered from *both* persistent depressive disorder and substance use disorder (ketamine dependence) and concluded on the evidence before him that there was a relationship between both disorders, given the expert evidence that the applicant had resorted to ketamine to self-medicate his chronic depressive low mood and poor self-esteem (*Jeffrey Phua* at [15] and [17]). This led the Judge to conclude that the applicant's mental conditions *taken together* had "substantially impaired the mental responsibility for his act of committing the offence for which he was convicted" (*Jeffrey Phua* at [19]).

60 In *Roszaidi*, the Court of Appeal considered whether the *combination* of the accused person's major depressive disorder ("MDD") and substance use disorder ("SUD") substantially impaired his mental responsibility for his acts in relation to his offence at the material time. The Court of Appeal found that his MDD and SUD operated in a *synergistic* manner, and that his MDD formed the underlying substrate of his SUD, and accounted for the intensity of his SUD at the time of the offence. The evidence in that case indicated that the accused person's MDD and SUD were "inextricably intertwined" at the material time, such that it would be impractical and artificial to ascertain the aetiology of the accused person's SUD *in isolation* from his MDD (*Roszaidi* at [78]).

The causal link between the mental condition and the commission of the offence

61 Establishing the presence of the offender's mental conditions and the relationship between them, however, will not in itself constitute a mitigating factor. The court must go on to consider the causal link between the mental conditions and the commission of the offence. Specifically, the mental conditions must have had some impact on the offender's mental responsibility.

In this regard, it may be helpful for the court to consider the three aspects of mental responsibility as detailed in *Roszaidi* at [105]:

> (a) First, whether the offender possessed the *basic cognitive ability* to perceive his acts or omissions and know their nature.
>
> (b) Second, whether the offender possessed the *moral and legal cognition* to know and appreciate whether the act or omission in question was wrong, in the sense of it being contrary to the ordinary standards of reasonable and honest persons and contrary to law.
>
> (c) Third, whether the offender was able to exercise his will to control his actions such that he acts in accordance with his moral and legal cognitive sense.

62 If the offender's mental conditions do not affect the commission of the offence, the usual sentencing parameters and principles would apply. However, where the offender's mental conditions *are established* and are shown to be *causally linked to the commission of the offence in some way*, such a condition will typically reduce the offender's culpability and be treated as a mitigating factor (*Public Prosecutor v Chong Hou En* [2015] 3 SLR 222 at [33]; *Kong Peng Yee* at [64]; see also *Miya Manik v Public Prosecutor and another matter* [2021] 2 SLR 1169 at [45]).

63 An example of a causal connection being established between the mental conditions and the offences committed can be seen in *Roszaidi.* There, the majority of the Court of Appeal considered the accused person's decision to traffic drugs against the background of his MDD and SUD. The court determined that his decision to traffic drugs could not be characterised as a *reasoned choice* or the consequence of *rational judgment*. Instead, this was

borne out of his disordered mind, and his mental disorders impaired his ability to *control his actions* to the extent that his overriding preoccupation at the relevant time was procuring and consuming drugs (*Roszaidi* at [177] and [183]).

The approach to be taken where the onset of symptoms is brought on by the offender's actions and choices

64 Next, if it is suggested that the accused person's mental conditions were brought about by his own actions and choices, the court ought to consider the extent to which the offender was aware of the consequences of such actions and choices. This would impact the assessment of the offender's culpability. This was noted by the English Court of Appeal in *Regina v PS* [2020] 4 WLR 13 ("*Regina v PS*") at [8] as a consideration in the sentencing of an offender with mental conditions:

> … here the offender's mental condition has been exacerbated by a failure to take prescribed medication, or by "self-medication" with controlled drugs or alcohol, [and] the sentencer will consider whether the offender's conduct was wilful or arose, for example, from a lack of insight into his condition …

65 In my judgment, this is correct. The offender's insight into his condition may even be a *key* consideration in determining whether his conditions are to be treated as a mitigating factor. Where an offender who is sufficiently aware of the mental conditions he suffers from and their effects, but nonetheless knowingly embarks on a course of action that renders him more susceptible to the symptoms of his conditions surfacing, then this may more readily be analogised with the line of cases that concern offenders who voluntarily get intoxicated and therefore lose control. Self-induced intoxication is generally not a mitigating factor because one is taken to be aware of the risk of losing control or even cognition in such circumstances and so to remain fully responsible for those consequences. It should be obvious, of course, that an assessment into the

accused person's awareness of and insight into his condition and its consequences, presupposes that all the relevant aspects of that condition and consequences have been established as part and parcel of the inquiry into the nature of the mental condition in question. In this regard, I reiterate the observations I have made at [45] above in respect of the state of the evidence before me.

66 On the other hand, where the accused person is *unaware* for some reason of the effect that his intoxication or substance abuse might have in precipitating symptoms of his conditions, his consumption of alcohol or other substances may not be treated as an aggravating factor and instead, considerations of rehabilitation may emerge. This was noted in *Public Prosecutor v Mohammad Zam bin Abdul Rashid* [2006] SGHC 168, where the accused person was charged with culpable homicide not amounting to murder under s 304(*a*) of the Penal Code (Cap 224, 1985 Rev Ed). Tay Yong Kwang J (as he then was) noted at [26] that the psychiatrists who had examined the accused had observed that the accused was *ignorant* of the fact that consuming alcohol would aggravate his loss of impulse control and lower his threshold for aggressive outbursts. Further, it was clear that the accused did not know that he was suffering from Frontal Lobe Syndrome, which is a condition that results in the individual being emotionally labile and unable to control his impulses. While the accused was eventually sentenced to life imprisonment, Tay J noted at [31] that "the accused's unfortunate mental condition [had] to be taken in mitigation" when deciding the appropriate length of sentence to impose.

The appropriate punishment after balancing the interest of the public and offender

67 Finally, the court will consider the appropriate punishment after balancing the interests of the public and that of the offender. Factors that are

relevant in determining which of the four sentencing considerations of deterrence, prevention, retribution and rehabilitation should take greater weight include:

(a) the offender's attitude in seeking treatment and compliance with the treatment programme;

(b) whether the offender is recalcitrant;

(c) whether the offender poses a threat to the public; and

(d) whether the offender is guilty of a particularly serious crime.

68 Where an offender has actively sought regular treatment and has shown a real effort to avoid reoffending, the need for general and specific deterrence would recede (*Goh Lee Yin* at [95]). The offender's support system may also be a relevant consideration in determining the likely efficacy of his rehabilitation. Where there is exceptional support and commitment on the part of the offender's family and caregivers, the sentencing consideration of rehabilitation may be given greater weight (*Goh Lee Yin v Public Prosecutor* [2006] 1 SLR(R) 530 at [49]). Conversely, where the offender is aware that he or she is likely to reoffend and yet fails to comply with the treatment plan, it may be appropriate to emphasise specific deterrence to provide the discouragement necessary for the offender to adhere to his future treatments (*Goh Lee Yin* at [83]). As noted in *Public Prosecutor v Lim Ah Liang* [2007] SGHC 34 at [41], incapacitation aims to deal with severely mentally ill offenders who are not amenable to treatment by incapacitating them for substantial periods of time.

69 Where an offender poses a threat to the public and is guilty of a serious offence, the consideration of prevention by way of incapacitation may take the main focus in the sentencing process. Notwithstanding the fact that the offender

might suffer from a psychiatric disorder which causes the commission of the offence, the consideration of prevention may be especially relevant where the offender is guilty of more serious offences (*Goh Lee Yin* at [108]).

70 With these principles in mind, I turn to consider the Appellant's mental conditions and their impact on the appropriate sentence that should be imposed.

My assessment of the Appellant's mental conditions

The existence, nature and severity of the Appellant's mental conditions

71 I begin by examining the existence, nature and severity of the Appellant's mental conditions. It is common ground between the parties that the Appellant suffered from: (a) schizophrenia; (b) polysubstance dependence; and (c) substance-induced psychosis. I thus turn to consider the nature and severity of these conditions.

Schizophrenia

72 The Appellant was recorded as having a history of schizophrenia in the 12 July 2019 IMH Report (see [22] above). However, the IMH Reports and CT Report do not shed further light on the nature and severity of the Appellant's schizophrenia. I also note that the available medical evidence before me does not suggest that the Appellant was experiencing schizophrenic symptoms when he committed the acts constituting the First, Second and Third Charges (see [30] above). Specifically, the 10 March 2022 IMH Report concluded that the Appellant's substance-induced psychosis was not associated with a primary psychotic disorder such as schizophrenia (see [29] above), although the basis for this conclusion was not explained. Nonetheless, the Appellant did not take issue with this.

Polysubstance dependence

73 The nature and severity of the Appellant's polysubstance dependence was not explored in detail in the IMH Reports and CT Report. While the CT Report mentions the Appellant's history of substance abuse since his early 20s, it does not go further than to catalogue examples of the Appellant's incarcerations for abusing various substances. The 10 March 2022 IMH Report also only goes so far as to state that it was the Appellant's polysubstance dependence which led him to seek out substances such as codeine-based cough mixture. Notably, there was no elaboration by Dr Jason Lee on the nature and severity of the Appellant's polysubstance dependence.

Substance-induced psychosis

74 The nature of the Appellant's substance-induced psychosis was explored at greater length in the IMH Reports and CT Report. The medical evidence states that the Appellant's substance-induced psychosis caused him to suffer from distressing auditory hallucinations. It is common ground that these hallucinations were so distressing that he was at times, unable to sleep for several days. He had also tried on several occasions to kill or injure himself in order to avoid giving in to what his hallucinations seemed to be commanding him to do. He did this by jumping out of the window of his home and suffered some permanent injuries as a result. It seemed that the Appellant knew the nature of the acts that might ensue once the hallucinations set in and the potential harm these could give rise to. However, it also seems he was incapable of resisting once he was assailed by the hallucinations. While the medical evidence lacked a specific conclusion on the severity of this condition, it can be reasonably inferred that the Appellant's substance-induced psychosis was severe, given the extreme, albeit misguided, lengths to which he went in attempting to resist yielding to the auditory hallucinations.

The interaction between the Appellant's different mental conditions

75 I next consider the relationship between the Appellant's various mental conditions and whether they interacted synergistically so as to exacerbate the hallucinations experienced by the Appellant. The Appellant's psychosis, which triggered his violent behaviour, could be related to one of three things: (a) his polysubstance dependence; (b) his schizophrenia; or (c) a separate condition, such as depression (see [23(b)] above). I consider the evidence on the relation between each of these three conditions to the Appellant's psychosis.

76 First, as is alluded to in the 10 March 2022 IMH Report, the Appellant's psychosis could have been "substance-induced". While there are multiple references therein to the Appellant's "substance-induced psychosis", which suggested that the psychosis was induced or caused by the intake of prohibited drugs or substances, this was stated as a conclusion with little, if any, reasoning or explanation provided. There was also no elaboration of the type of substances that could trigger the onset of psychosis; how that happened; whether the psychosis would always be triggered in such circumstances; and whether the psychosis could also be independently triggered.

77 Further, there was no explanation as to how any of the key conclusions were reached, nor as to the nature of the relationship between the Appellant's polysubstance dependence and his psychosis. The latter, in particular, seems to me to be an important point because it was noted in the 10 March 2022 IMH Report that the Appellant has a *main diagnosis* of polysubstance dependence, which was known to the IMH since 2005. The 10 March 2022 IMH Report also identifies a *correlative chronological* link between the Appellant's substance abuse and psychosis. This suggests that the Appellant would consume drugs *and then* experience substance-induced psychosis. The Appellant's polysubstance

dependence, which he appears to have a long history of, could thus have potentially accounted for the intensity and/or frequency of his psychotic attacks. Unfortunately, any explanation of the *relation* between these conditions was noticeably absent in the other IMH Reports or the CT Report.

78 I was also troubled by the fact that the CT Report appeared to suggest that the Appellant experienced psychotic episodes in prison, where the Appellant could not possibly have had access to intoxicating substances (see [34] above). However, this too was not addressed in the psychiatric evidence. On its face, this appears to suggest that the Appellant could have suffered from psychosis in prison, which would have occurred *independent* of the consumption of drugs.

79 Second, the Appellant's psychosis could have been linked to his schizophrenia. Unfortunately, there was no consideration of this possible correlation in the IMH Reports, though it seems in any case to have been excluded in the 12 July 2019 IMH Report. In the 10 March 2022 IMH Report, Dr Jason Lee also stated that the Appellant's psychotic features and hallucinations in the past were *thought* to be drug-induced and not associated with a primary psychotic disorder such as schizophrenia. It may be noted however, the Appellant's schizophrenia was described in the 10 March 2022 IMH Report as a "primary psychotic disorder".

80 Third, the Appellant's psychosis could be related to another mental condition such as depression. However, given that the IMH Reports are silent to any potential link, I go no further than to note this as a possibility.

81 In essence, given the shortcomings in the evidence, and given the way both parties approached the issue, I am left to proceed on the basis that the

Appellant's psychosis was substance-induced and that it was not related to any of his other conditions. However, the evidence was not satisfactory.

The causal link between the Appellant's mental conditions and the commission of the offences

82 I turn next to consider the *causal relationship* between the Appellant's mental conditions and his offending behaviour.

83 The 10 March 2022 Report states that the Appellant was suffering from substance-induced psychosis *at the time of the offences* in February 2022 and his symptoms (namely, hallucinations and persecutory delusions) "contributed substantially" to the offences by impairing his judgment and impulse control (see [30(b)] above). The effect of the findings in the 10 March 2022 Report was that the Appellant would not qualify for the defence of insanity. However, this finding also clearly points to the conclusion that subject to any question of the psychosis being knowingly self-induced through substance abuse, the Appellant's *mental responsibility was significantly impaired given that he was psychotic at the time, and this in fact contributed "substantially" to the commission of the offences.*

The extent to which the Appellant had insight into his mental conditions and their effects

84 Proceeding on the basis that the Appellant's substance-induced psychosis was a substantial cause of his offending behaviour, I next consider his awareness of and insight into this. There was no information in the IMH Reports or the CT Report which sheds light on whether the Appellant was *aware* that his substance abuse would trigger his psychosis, thus increasing the risk of violent behaviour. This is significant because the Prosecution's main submission in relation to the Appellant's mental conditions is that they should

not be treated as a mitigating factor because the Appellant had *voluntarily ingested the substances, knowing that it would trigger his psychosis* (see [4545] above).

85 I note that the DJ too had framed the offences in terms that they had been precipitated by the Appellant's "self-induced consumption of cough syrup and diazepam" (GD at [86]). The DJ based his conclusion that the Appellant "*would have been aware* of the effect" (emphasis added) of his substance abuse on his treatment history and past offences (GD at [86(i)]). However, it should be noted that there was no specific expert evidence before the DJ (or this court) that explained the asserted link between any specific substance and the Appellant's psychosis, and more specifically nothing as to the Appellant's awareness of any such linkage. The DJ considered to be relevant, the seminal case on self-induced intoxication, *Wong Hoi Len v Public Prosecutor* [2009] 1 SLR(R) 115 ("*Wong Hoi Len*") in which the High Court cautioned that those who voluntarily imbibe alcohol must bear full responsibility for their subsequent offending. On this basis, the DJ concluded that the same should apply to those who voluntarily ingest substances that would cause them to have a greater tendency to commit offences. This was also the Prosecution's position at the 18 April Hearing.

86 I return to what I have said at [64]–[66] above and the reason why self-induced intoxication is treated as an aggravating factor. This reasoning is also central to the Prosecution's position before me. An offender's culpability in such situations is aggravated because he *consciously* embarks on a course of conduct which he knows to be dangerous and to have dire potential consequences. It is the endangering of the life and safety of others by taking on a known and foreseeable risk that makes it untenable to view self-induced intoxication as mitigating, and indeed that can drive the court to view it as an aggravating circumstance. In *Wong Hoi Len*, VK Rajah JA set out a detailed

exposition on the impact of alcohol-related crime on public order and safety and the policy reasons for not allowing an offender to use his intoxication as an excuse for his actions (*Wong Hoi Len* at [43]–[46]). This was also the approach taken by Tay Yong Kwang JC (as he then was) in *Public Prosecutor v Aw Teck Hock* [2003] 1 SLR 167 at [23], in the context of culpable homicide not amounting to murder.

87 To bring this case within that principle, it was therefore incumbent on the Prosecution to show that the Appellant *knew* that by consuming certain illicit substances, it would trigger his psychosis which would bring about the onset of the auditory hallucinations and in turn cause him to act violently towards those around him. There was no medical evidence to support this (see [24], [35]–[37] above). During the hearing, the Prosecution submitted that I should proceed on the basis that the Appellant "should have appreciated" the risks of his violent tendencies upon consuming substances. This was advanced on two bases:

(a) First, on 9 June 2019, the Appellant had admitted to committing the offence leading to the Fourth Charge after abusing cough syrup without a prescription (see [19] above). The Prosecution submitted that the events leading to the Fourth Charge formed an "important part of his offending history".

(b) Second, the Appellant's antecedents reveal that he had a *pattern of offending* and that he had a "habit of taking intoxicating substances and then committing violence and he knew that".

88 I do not agree.

89 First, the two grounds relied on by the Prosecution essentially rest on a certain chronology of events: specifically, it is suggested that because on one or

more occasions, the Appellant had consumed an illicit substance and this had then been followed by the onset of psychotic symptoms in the form of the auditory hallucinations, the Appellant ought to have known that he was susceptible to this. In essence, the Prosecution invites me to draw an inference to this effect when the Prosecution has not shown that the Appellant *knew* that the consumption of substances would result in his psychosis and subsequent violent behaviour. I find myself unable to do this. As I have noted at [65] above, it is crucial that the accused person must have *insight* into his mental condition. It is his disregard for the consequences he knows will follow certain conduct on his part that increases his culpability. On the evidence that is before me, I am unable to conclude that this was the case here because it is not clear to me that the Appellant *voluntarily put himself* in a situation which he knew would result in his violent behaviour.

90 Second, the Appellant's antecedents *do not in themselves support the conclusion* that he knew or must have known he would have a violent tendency to commit an offence after he had consumed intoxicating substances. A review of the antecedents show that this was the first time that he had been convicted of a violent offence since June 2012 (see the Appellant's antecedent history at [38] above). Given that the Appellant had been abusing substances for most of his adult life, it can hardly be said that his antecedents support the existence of a pattern that meant he must have known that his consumption of substances would lead to psychosis and in turn to violent tendencies. It is also not clear on the evidence whether, given the various medical conditions he suffers from, he even had the capacity to understand what was happening to him when he experienced the hallucinations, or that he possessed the awareness to make the logical links that the Prosecution is suggesting.

91 I also reiterate the observation at [78] above which suggests that the Appellant may have experienced some psychotic symptoms even in prison. In the round, I am not satisfied on the evidence that the Appellant knew or appreciated the connection between his substance dependency, his consequent abuse of substances, the onset of his psychosis and the hallucinations, beyond the fact that at some point he seems to have realised that this did happen more or less in this sequence at times (see [35]–[37] above).

Observation: The inadequacy of the psychiatric evidence

92 Before I conclude on the Appellant's mental conditions, I pause to make an observation on the dearth of psychiatric evidence and the impact it had on the present facts. There were, as has been noted throughout my judgment, several issues that could have been more thoroughly addressed. These include:

(a) the nature and severity of the Appellant's schizophrenia (see [72] above);

(b) the nature and severity of the Appellant's polysubstance dependence (see [73] above);

(c) the severity of the Appellant's substance-induced psychosis (see [74] above) though I have drawn an inference as to this;

(d) the reasoning behind the conclusion that the Appellant's psychosis was caused by his substance-abuse (see [45], [76]–[78] above);

(e) whether the Appellant was aware of his mental conditions and their effect on his behaviour and had sufficient insight into these matters at the time of the offences (see [45], [86]–[91] above).

93 Where experts present their conclusions without also presenting the underlying evidence and the analytical process by which the conclusions are reached, the court will not be in a position to evaluate the soundness of the proffered views. In such instances, the court will typically reject that evidence (*Kanagaratnam Nicholas Jens v Public Prosecutor* [2019] 5 SLR 887 ("*Kanagaratnam*") at [2]; *Public Prosecutor v Chia Kee Chen and another appeal* [2018] 2 SLR 249 ("*Chia Kee Chen*") at [119]).

94 In the present case, the fact that the Appellant was found fit to stand trial *says very little* about the interactions between his conditions and the extent to which the conditions impaired his mental responsibility.

95 In fairness to the various psychiatrists who prepared the reports in this case, it has to be said that none of them were asked to address the issues I have outlined above. Consequently, it seems to me that these gaps arose because the IMH Reports were prepared for some other purpose, and not to aid the sentencing court. Specifically, they relate primarily to the Appellant's *fitness to stand trial*. It is thus unsurprising that the makers of those reports did not consider matters that might have been relevant for sentencing, such as the interaction between the Appellant's various mental conditions and its impact on culpability. In this regard, I reiterate the questions detailed at [55] above that ought to have been addressed in the psychiatric reports. I also take the opportunity to re-emphasise the observations of VK Rajah JA in *Public Prosecutor v Kwong Kok Hing* [2008] 2 SLR 684 at [31]:

> Where, as here, the mental condition of the offender falls to be assessed, it is the duty of both the psychiatrist and counsel to ensure that the evaluation is accurate … ***Failure to verify the accuracy and objectivity of the assessment can result in much costs and time being wasted*** …
>
> [emphasis added in bold italics]

96 It is unfortunate that these points were missed and that despite the concerns I raised at the 18 April Hearing, no attempt was made to fill the gaps. In any case, given the evidence before me, I proceed on the basis that the Appellant suffers from the three mental conditions listed at [20] above and that his substance-induced psychosis contributed substantially to the commission of the offences. Further, in the absence of evidence that the Appellant had sufficient insight that if he ingested certain substances, this would result in violent psychotic behaviour on his part and that he nonetheless voluntarily chose to act in this way, I find his medical condition substantially impaired his responsibility and that this is a mitigating factor.

97 To put it simply, I found it unrealistic, on the evidence before me, to approach this case disregarding the Appellant's medical conditions and sentencing him as though he was an ordinary mentally fit person, which is how the Prosecution and the DJ appear to have approached sentencing in this case.

The appropriate imprisonment term for the First, Second and Third Charges

The relevant sentencing considerations in light of the Appellant's mental conditions

98 Before I consider the appropriate sentences for the First, Second and Third Charges, I outline the relevant sentencing considerations in light of the Appellant's mental conditions.

Deterrence

99 In my judgment, considerations of deterrence are of limited significance in this case. This is because general deterrence is premised on the cognitive normalcy of both the offender in question and the potential offenders sought to

be deterred. As highlighted in *Public Prosecutor v Law Aik Meng* [2007] 2 SLR 814 at [22], deterrence is usually appropriate where the crime is premeditated, but pathologically weak self-control, addictions, mental illnesses and compulsions are some of the elements that may constitute "undeterribility" and render deterrence futile.

100 As emphasised by the court in *Connie Ng* at [58], "general deterrence will not be enhanced by meting out an imprisonment term to a patient suffering from a serious mental disorder which led to the commission of the offence". The observations of Chao Hick Tin JA in *Soh Meiyun v Public Prosecutor* [2014] 3 SLR 299 at [43] are also apposite, and I reproduce them below:

> … [I]f general deterrence is addressed to persons who, like the appellant, have psychiatric conditions that make it difficult for them to control their emotions and behaviour, I think that object would be little served by a custodial sentence. *General deterrence assumes persons of ordinary emotions, motivations and impulses who are able to appreciate the nature and consequences of their actions and who behave with ordinary rationality, for whom the threat of punishment would be a disincentive to engage in criminal conduct.* But persons labouring under such mental disorders as the appellant do not possess ordinary emotions, motivations and impulses. For such persons, at the time of their criminal acts, they would be so consumed by extraordinary emotions or impulses that the threat of punishment features hardly, if at all, in their cognition and hence has little if any effectiveness as a disincentive.
>
> [emphasis added]

Prevention

101 During the hearing, the Prosecution submitted that the Appellant would pose a risk to society if he was not given a longer imprisonment sentence, as he does not appear to be "capable of managing his drug abuse problem". This argument suggested that my focus in sentencing should be on *prevention in the form of incapacitation*. However, even if weight is given to the need for

incapacitation and protection of the public, this nonetheless must be assessed against the severity of the index offence (*Public Prosecutor v Low Ji Qing* [2019] 5 SLR 769 ("*Low Ji Qing*") at [81]). This in turn is an assessment the sentencing court makes with the requisite medical evidence that would guide it in terms of the offender's responsiveness to treatment and of the best conditions for treatment to be fruitful.

102 Thus, in cases where prevention had come to the fore, the court would typically have been assisted with psychiatric evidence which detailed whether there were medical reasons to keep an accused person in a structured environment such as a prison for a considerable amount of time (*Kong Peng Yee* at [50]; *Low Ji Qing* at [90]). The psychiatric evidence in this case did not address these issues. By contrast:

(a) In *Kong Peng Yee*, the respondent attacked and killed his wife with a chopper while experiencing a brief psychotic episode at the time of the offence. It was determined that his psychotic delusions substantially impaired his mental responsibility for his actions. He was assessed by a doctor from the IMH who stated that the respondent was responding well to medication, but required long-term follow up with psychiatric services. The Court of Appeal determined that rehabilitation and prevention took precedence, which resulted in three sentencing options: to dismiss the appeal; to have the accused person undergo probation with a condition of residence at the IMH; or to enhance the sentence to achieve the twin objectives of rehabilitation and prevention. Having regard to the IMH report, the court determined that a sentence of six years' imprisonment was appropriate to ensure the respondent's continued compliance with his medication regime and provide greater assurance that he would not relapse or cease to take his medication. The

sentence also assuaged to a reasonable degree the concerns which the public may have about a potentially dangerous man living in its midst (*Kong Peng Yee* at [99] and [100]).

(b) In *Low Ji Qing*, the respondent was charged with three counts of theft of wallets from female victims. He was assessed by the IMH to have a fetishistic disorder involving the wallets of women and a secondary diagnosis of an adjustment disorder with depressed mood. In determining that the DJ's sentence of three years' imprisonment was adequate, the court determined that there was no evidence that the structured confines of imprisonment would be *more effective* in treating the respondent and would therefore justify a longer stint of incarceration (*Low Ji Qing* at [90]).

103 There was simply no evidence before me of this sort that might have suggested that a longer term of imprisonment was necessitated by the objective of rehabilitating the offender. Further, the evidence did not establish that the Appellant was even aware of the correlation between his mental conditions and the fact that his violent behaviour would be triggered due to his substance-induced psychosis. It is a matter for consideration whether such awareness may assist in his rehabilitation. Significantly, it appears to me that the Appellant was trying, albeit maladaptively, to cope with his mental conditions when he committed the offences in question. I have referred, for instance, to his efforts to avoid offending by trying to kill or seriously injure himself. The Appellant does not seem to me to want to offend in a violent way, and he clearly needs help. But nothing has been put before me as to what would be the best way to give him that help. This being the case, I am unable to find that the prevention principle should be the overriding sentencing consideration.

Retribution

104 Lastly and for completeness, I consider the relevance of the principle of retribution. The principle of retribution is premised on the notion that the offender's wrongdoing deserves punishment. The punishment should be proportionate to the degree of harm occasioned by the offender's conduct and his culpability in committing the offence (*Public Prosecutor v Loqmanul Hakim bin Buang* [2007] 4 SLR(R) 753 at [46]–[48]).

105 In general, the principle of retribution also recedes in cases where the accused person suffers from mental disorders. In *Kong Peng Yee*, the Court of Appeal considered that the offender's attack on his wife was brutal, but was ultimately the "work of a disordered mind rather than a cold and cruel one". Accordingly, the offender's culpability was very low despite the great harm caused, and in the circumstances, it was difficult to say that he should have been severely punished for the wrong committed against his wife (*Kong Peng Yee* at [75]).

106 There is no doubt that in the present case, there was harm caused to the victims. In particular, Mr Wong required hand debridement surgery and was hospitalised thereafter. The Appellant's acts of swinging the knife at random were also inherently dangerous to innocent members of the public. However, as the Appellant's actions appear to be the result of a disordered mind, this lowers his culpability.

Imprisonment term for the First Charge (the s 324 offence)

107 I therefore place some weight on each of the primary sentencing considerations without emphasising any one, and consider the appropriate

sentence for the First Charge under s 324 of the Penal Code in the light of his diminished culpability. Section 324 provides as follows:

> **Voluntarily causing hurt by dangerous weapons or means**
>
> **324.** Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is harmful to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, *shall be punished with imprisonment for a term which may extend to 7 years, or with fine, or with caning, or with any combination of such punishments*.
>
> [emphasis added]

The parties' cases

108 The parties both agree that sentencing in this case should be guided by the three-step approach set out in *Ng Soon Kim*.

109 At the first step, the court will consider what an appropriate sentence will be had the hurt in question, without any reference to the dangerous means used, been the subject of an offence under s 323 of the Penal Code. This involves an application of the sentencing framework set out in *Low Song Chye v Public Prosecutor and another appeal* [2019] 5 SLR 526 ("*Low Song Chye*"), which applies to a first-time offender under s 323 who pleads guilty: *Ng Soon Kim* at [13]. Specifically, the sentencing framework in *Low Song Chye* involves a two-stage inquiry:

> (a) At the first stage, the court identifies the sentencing band and where a particular case falls within the applicable indicative sentencing range by considering the hurt caused by the offence. The harm assessed should be limited to *actual harm* (*Low Song Chye* at [78(a)]).

(b) At the second stage, the court makes the necessary adjustments to the indicative starting point sentence based on its assessment of the offender's culpability as well as all other relevant factors (*Low Song Chye* at [78(b)], [96]).

110 I make two observations on the application of the *Low Song Chye* framework.

(a) First, the sentencing bands in the first stage of *Low Song Chye* should be adjusted to account for the amendments introduced by s 95 of the Criminal Law Reform Act 2019 (Act 15 of 2019) ("the Criminal Law Reform Act"). These amendments increased the prescribed punishment range for offences under s 323 of the Penal Code by increasing the maximum custodial term from two to three years' imprisonment. In this regard, I endorse the approach taken in the recent of decision of *Haleem Bathusa bin Abdul Rahim v Public Prosecutor* [2023] SGHC 41 at [44], where the Judge "extrapolated" the upper end of the indicative imprisonment range up by a factor of 1.5 to reflect the changes in the Penal Code.

(b) Second, while the second stage of *Low Song Chye* requires the court to consider, offender-specific factors, among others, there is a risk of double-counting if these factors are considered in the present context. This is because the third step of *Ng Soon Kim* requires the court to calibrate the final sentence after having regard to the particular aggravating and mitigating circumstances of the case (see [112] below). This being the case, a sentencing court that applies the *Low Song Chye* framework within the context of the three-step approach set out in *Ng Soon Kim* should leave the consideration of offender-specific factors to

> the third step of *Ng Soon Kim*. For the avoidance of doubt, other non-offender-specific factors, such as the context in which the offence occurs (see *Ng Soon Kim* at [14]), can be considered at the second stage of the *Low Song Chye* framework.

111 At the second step, the court will consider the application of a suitable uplift, having regard to the dangerous means used. Here, the court will also consider the potential harm that could result from the chosen means of offending (*Ng Soon Kim* at [15]).

112 At the third step, the court calibrates the final sentence, having regard to other considerations, such as the various aggravating and/or mitigating circumstances at play (*Ng Soon Kim* at [17]).

113 Applying this framework, the Prosecution seeks a sentence of 36 to 42 months' imprisonment for this offence. The Prosecution submits that applying the first and second stages of the analytical framework set out in *Ng Soon Kim*, the indicative starting point would be 12 months' imprisonment. This is because the weapon was concealed and dangerous, the harm caused to the victim was not minor and there was potential harm to innocent members of the public. At the third stage of *Ng Soon Kim*, the Prosecution seeks an uplift of 24 to 30 months' imprisonment on the basis that the Appellant was a serious danger to the community. The Prosecution reiterates the various aggravating factors, namely, the Appellant's antecedents, the effect of the charges taken into consideration and his having committed the offence while under investigations. The Prosecution also asks that imprisonment in lieu of caning be imposed.

114 On the other hand, the Appellant seeks a sentence of 12 months' imprisonment for the First Charge. Mr Chooi submits that the DJ erred in the application at the first step of the *Ng Soon Kim* approach in two ways:

(a) First, the DJ overstated the harm caused to Mr Wong. The objective evidence shows that the injury suffered by Mr Wong should have fallen within Band 1 of the framework, or at the very least, at the lower end of Band 2 as set out in *Low Song Chye*. The appropriate starting point should therefore have been around six weeks' imprisonment.

(b) Second, the DJ imposed a manifestly excessive uplift of five months' imprisonment, which more than doubled his starting point of four months. Taking into account the relevant factors, Mr Chooi submits that an uplift of ten weeks' imprisonment should be imposed instead.

115 However, Mr Chooi submits that the DJ did not err at the second or third step of the *Ng Soon Kim* approach. Having regard to the dangerous weapon that was used, an uplift of six months' imprisonment at the second step of the *Ng Soon Kim* approach was appropriate. There was also no error in the DJ's treatment of the charges that were taken into consideration. The DJ's finding that an uplift of three months' imprisonment was appropriate, adequately balancing the Appellant's plea of guilt, the need to ensure his treatment, his strong family support, his physical injuries that reduce his risk of reoffending and his antecedents. Mr Chooi accordingly submits that a sentence of not more than 13 months' imprisonment would be appropriate for the offence under s 324.

Step 1 of Ng Soon Kim

116 As highlighted at [110] above, Step 1 of *Ng Soon Kim* embodies the two-stage framework that is set out in *Low Song Chye*. At the first step of the *Ng Soon Kim* approach and first stage of the *Low Song Chye* framework, I am satisfied that there is no reason for me to depart from the DJ's analysis and conclusion that the sentence of four months' imprisonment would be justified if the hurt had been the subject of a charge brought under s 323 of the Penal Code. However, at the second stage of the *Low Song Chye* framework, I disagree with the DJ that there should be a *further* uplift of five months' imprisonment and only impose an uplift of two months' imprisonment. I set out my reasons below.

(1) Stage 1 of the *Low Song Chye* framework

117 At the first stage of the *Low Song Chye* framework, I do not accept the Appellant's submission that the harm caused was minor and that it should fall within Band 1 of *Low Song Chye*. While Mr Chooi endeavoured to explain in his written submissions that despite the terms of Mr Wong's medical report from NUH (the "NUH Report"), the injuries are not as serious as they appear to be, the short point is that Mr Wong's injury cannot be described as "minor". It is undisputed that Mr Wong required surgery for his wound. The NUH Report stated that Mr Wong had to go through "right hand debridement surgery" and that "there was laceration over dorsal ulnar hand extending towards ulnar border of hand, with ADM partial laceration 20% over its dorsal aspect". Mr Wong was also hospitalised from 18 February 2022 to 21 February 2022.

118 In my view, this level of harm fairly falls within Band 2, which provides an indicative sentencing range of between four weeks' to six months' imprisonment for "moderate harm" caused, such as hurt resulting in a short hospitalisation period or simple fractures (*Low Song Chye* at [83]). *Public*

Prosecutor v Tey Kok Peng (District Arrest Case No 912220 of 2014), which was referenced in *Low Song Chye* (at [92]), was determined to be a case that would have also fallen within the middle of Band 2. In that case, the victim suffered a left orbital fracture as a result of the accused's punch. The accused pleaded guilty, had no similar antecedents and was sentenced to three months' imprisonment. Given that in the present case, Mr Wong also required a short hospitalisation period, I am of the view that an indicative sentence of four months' imprisonment is appropriate. I therefore see no reason to depart from the DJ's decision in this regard.

(2) Stage 2 of the *Low Song Chye* framework

119 However, in light of my assessment of the Appellant's mental conditions, I disagree with the DJ that the sentence should be enhanced by five months at the second stage of the *Low Song Chye* framework. I note that the DJ had, applying *Low Song Chye* at [78], imposed the uplift after considering the following factors: (a) the extent of deliberation or premeditation; (b) the manner and duration of the attack; and (c) the victim's vulnerability.

120 As a preliminary point and as clarified at [110(b)] above, offender-specific factors should be considered at the third and final step of the *Ng Soon Kim* approach. Thus, the consideration of the Appellant's deliberation and premeditation as well as the manner and duration of the attack should not be considered at this stage for analytical clarity. However, to be fair to the DJ, he did not have the benefit of this clarification and therefore cannot be faulted for considering these two factors within the second stage of the *Low Song Chye* framework. Nonetheless, regardless of the step at which these two factors should have been considered, I am of the view that they *would not* have warranted the imposition of an uplift.

121 The DJ observed that the Appellant appeared to have exercised some degree of preparation, as seen from: (a) the Appellant's arming of himself with a knife; (b) his decision to head to a public place with the intention of causing hurt; and (c) his act of rewrapping the knife in newspaper after his first attempt to wound a pedestrian and immediately prior to his attack on Mr Wong.

122 In my judgment however, the Appellant's mental conditions and in particular his substance-induced psychosis contributed substantially to his offending behaviour. Indeed, the 10 March 2022 Report says as such and goes on to observe that this was so by "*impairing his judgment and impulse control*" [emphasis added]. Hence, the Appellant's decision-making abilities were indeed *substantially impaired* at the time of the offences due to his psychosis. In the circumstances, I conclude that the Appellant's decision to take a knife and slash at random members of the public was *not a reasoned choice or the consequence of rational judgment.* By the same token, I am of the view that the manner of the attack (slashing Mr Wong's right hand) was also substantially due to the Appellant's substance-induced psychosis.

123 That said, I agree with the DJ's consideration of Mr Wong's vulnerability in the assessment of whether an uplift is necessary at the second stage of the *Low Song Chye* framework. It is also pertinent that the Appellant attacked Mr Wong in a public place, which gave rise to some public alarm. I am thus satisfied that an uplift of around two months' imprisonment is appropriate.

124 In the circumstances, I consider that an uplift of two months' imprisonment is sufficient at Stage 2 of the *Low Song Chye* framework. This is a reduction of three months' imprisonment from the DJ's original uplift of five months' imprisonment.

Step 2 of Ng Soon Kim

125 Neither the Prosecution nor the Appellant has challenged the DJ's conclusion that an uplift of six months' imprisonment is warranted. At this step, the following factors are pertinent in determining the suitable uplift (*Ng Soon Kim* at [15]–[16]):

(a) the dangerous means used to inflict the injuries;

(b) the potential harm that could have been inflicted; and

(c) the possible alarm to third parties and/or the public that may have been caused as a result of the means used.

126 I agree with the DJ's assessment that an uplift of six months' imprisonment is warranted at this stage. The Appellant had used a *knife* in his attack of Mr Wong, which was an inherently dangerous weapon. The potential harm that could have been inflicted was also high. This is further borne out by the other two charges that were taken into consideration for criminal intimidation, as the Appellant had swung his knife at two passers-by both before and after he had attacked Mr Wong.

127 I therefore apply an increase of six months' imprisonment at this step.

Step 3 of Ng Soon Kim

128 The final step involves a calibration of the total sentence after considering the various aggravating and mitigating circumstances at play that have not already been considered: *Ng Soon Kim* at [17]. The Appellant does not challenge the DJ's uplift of three months' imprisonment while the Prosecution submits that an uplift of 24 to 30 months' imprisonment is warranted. The Prosecution's main argument for an uplift in the Appellant's sentence is that the

DJ failed to consider the Appellant's drug-related and substance-related antecedents as an aggravating factor.

129 I note that the DJ had not considered the Appellant's drug-related and substance-related antecedents to be relevant. Given my conclusion that there is no evidence that the Appellant was sufficiently aware of his mental conditions or the effects of his substance abuse on his behaviour, I am satisfied that his drug and substance related antecedents should not have any bearing on the sentence imposed. As highlighted in *Public Prosecutor v NF* [2006] 4 SLR(R) 849 at [69], if an offender has committed a similar offence on previous and/or multiple occasions, a longer sentence would be justified to curb his criminal activity. In the present case, the Appellant's offending history *did not* show any consistent pattern of violent offences. Instead, a review of the Appellant's antecedents (see [38] above) show that this was the first time that he had been convicted of a violent offence since June 2012. Further, as I have already noted, the Appellant's antecedents do not in themselves support the conclusion that he *knew or must have known* he would have a violent tendency to commit an offence after he had consumed illicit substances (see [90] above).

130 I note that the Appellant has also advanced two other factors that he submits should be given mitigating weight, namely, that he has strong family support and that he has physical injuries which would prevent him from reoffending. I do not give any mitigating weight to either factor.

(a) Firstly, I acknowledge that the CT Report highlights that he has a supportive family who provides him with emotional and practical support. However, this should not be seen as a mitigating factor, as there is nothing to suggest that the Appellant's family can exercise much supervision or control over him. It is undisputed that the Appellant's

mother obtained a Personal Protection Order against him because the Appellant had been aggressive at home.

(b) In relation to the Appellant's physical injuries and the possibility that this would reduce his risk of reoffending, the evidence does not suggest that these are so debilitating as to prevent him from reoffending. Indeed, the Appellant was able to slash Mr Wong despite his physical injuries. I thus do not give any mitigating weight to this factor.

131 For these reasons, I see no reason to depart from the DJ's conclusion that an uplift of three months' imprisonment is sufficient at the third step of the *Ng Soon Kim* approach.

132 In the circumstances, I am of the view that an appropriate sentence for the First Charge is a sentence of 15 months' imprisonment. This is a reduction from the sentence of 18 months' imprisonment that had been imposed by the DJ. For ease of reference, I reproduce in the table below a comparison of the DJ's sentence, the parties' submissions on sentence and the sentence that I impose on appeal, at each step of the *Ng Soon Kim* approach.

Step		**DJ's decision**	**Prosecution's submission**	**Appellant's submission**	**My decision**
First step of *Ng Soon Kim*	Stage 1 of *Low Song Chye*	Four months	12 months	Six weeks	Four months
	Stage 2 of *Low Song Chye*	Five months		Ten weeks	Two months

Second step of *Ng Soon Kim*	Six months		Six months	Six months
Third step of *Ng Soon Kim*	Three months	24 to 30 months	Three months	Three months
Total	18 months	36 to 42 months	13 months	15 months

Imprisonment term for the Second and Third Charges (the s 506 offences)

133 Finally, I consider the appropriate sentence for the Second and Third Charges. Both offences took place within minutes of each other and involved the Appellant using a knife to criminally intimidate each victim, with the threat in each case being that of causing grievous hurt by charging at that victim while brandishing a knife.

The parties' cases

134 The Prosecution submits that a sentence of 18 months' imprisonment is warranted for each of the Second and Third Charges. The Prosecution highlights that public interest considerations "come to the fore" because the attack against the police officer came after a substance-induced spree of earlier offences of actual or threatened violence against random members of the public, and this only came to an end after he was shot and then arrested.

135 The Appellant seeks a sentence of not more than seven months' imprisonment for each of the Second and Third Charges:

(a) For the Second Charge, being the offence committed against Mr Goh, Mr Chooi submits that the DJ erred in imposing a sentence of 12

months' imprisonment and should have imposed not more than seven months' imprisonment.

(i) First, the DJ placed excessive weight on the fact that taxi drivers are a protected class; that the threat was made with a dangerous weapon; and the offences were brought about by the Appellant's substance-induced psychosis.

(ii) Second, the DJ did not give enough weight to the fact that the threats were not accompanied by any threat to kill and only occurred because the Appellant was attempting to go to the police station to surrender himself.

(iii) Third, the nature of the threatened harm could not have been particularly severe as the threat was not specific and did not suggest death or privation.

(b) For the Third Charge, Mr Chooi submits that a sentence of not more than seven months' imprisonment should have been imposed. The DJ failed to place sufficient weight on the fact that the threats were not accompanied by any threat to kill, and only occurred because the Appellant was attempting to go to the police station to surrender.

The appropriate sentence for the Second and Third Charges

136 Section 506 of the Penal Code provides as follows:

Punishment for criminal intimidation

506. Whoever commits the offence of criminal intimidation shall be punished with imprisonment for a term which may extend to 2 years, or with fine, or with both; and **if the threat is to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or with imprisonment for a term which may extend to 7 years or more, shall be punished**

> **with imprisonment for a term which may extend to 10 years, or with fine, or with both.**
>
> [emphasis in bold]

137 The essence of an offence under s 506 of the Penal Code is an intention to cause alarm. This was accepted by the Prosecution. The Appellant admitted committing criminal intimidation "by threatening [the victim] with grievous hurt with the intent to cause alarm" in the SOF. Given that the Appellant does not challenge the accuracy of the SOF, I treat that as the agreed position between the parties as to the Appellant's intention to cause alarm and use that as the basis to assess the appropriateness of the sentence.

138 The Prosecution submitted that the Appellant did not rely on the defence of insanity and therefore cannot raise it on appeal. While that may be true on the question of liability, it is a different matter when it comes to considering the mitigating weight that should be placed on the Appellant's mental conditions. Given my conclusion (see [96] above) that the Appellant's medical condition substantially impaired his mental responsibility at the time of the offences, I am of the view that this has to be considered as a mitigating factor. While the Appellant indeed did cause alarm to the public due to his actions, his decisions at the time of the offences were the product of his disordered mind which was not functioning rationally in the first place, and that due to his medical condition, the extent of the Appellant's control over his actions was compromised. I therefore adjust the Appellant's sentence downwards by three months from the sentence of 12 months' imprisonment imposed by the DJ, who did not consider the Appellant's mental condition as a mitigating factor, to nine months' imprisonment for each of the Second and Third Charges.

Conclusion

139 For these reasons and to this extent, I allow the Appellant's appeal. I affirm the DJ's decision that the sentence for the First, Second and Fourth Charges should run consecutively, and the sentence for the Third Charge should run concurrently. For clarity, a breakdown of the Appellant's aggregate sentence is as follows:

Charge	DJ's decision	My decision
First Charge (s 324 offence)	18 months (consecutive)	15 months (consecutive)
Second Charge (First s 506 offence)	12 months (consecutive)	Nine months (consecutive)
Third Charge (Second s 506 offence)	12 months (concurrent)	Nine months (concurrent)
Fourth Charge (s 332 offence)	Three months (consecutive)	Three months (consecutive)
Aggregate sentence	33 months	27 months

140 The Appellant's aggregate sentence is thus reduced to a total of 27 months' imprisonment.

Sundaresh Menon
Chief Justice

Deputy Attorney-General Tai Wei Shyong and R Arvindren (Attorney-General's Chambers) for the Prosecution;
Chooi Jing Yen and Ng Yuan Siang (Eugene Thuraisingam LLP) for the Defence.