

***R v Curtis* [2013] ACTSC 291 (16 December 2013) – Australian Capital Territory Supreme Court**

‘Aboriginal and Torres Strait Islander people’ – ‘Assault occasioning bodily harm’ – ‘Drug and alcohol programs’ – ‘People affected by substance misuse’ – ‘People with mental illness’ – ‘Physical violence and harm’ – ‘Rehabilitation’ – ‘Young people’

Charge/s: Assault occasioning bodily harm.

Hearing: Sentencing hearing.

Facts: Mr Curtis, an 18 year old Aboriginal man, and the female victim were in a relationship. On 1 June 2013, Mr Curtis became agitated and aggressive towards the victim. He started punching her legs, arms, torso and stomach, causing bruising. When interviewed by police, he said that the victim had wanted him to teach her how to ‘stick up’ for herself and that they were just ‘mucking around’ but he stopped when he thought that what was happening did not ‘feel right’.

Decision and Reasoning: Mr Curtis was sentenced to 12 months imprisonment, suspended for 2 years, and ordered to comply with good behaviour obligations (a probation condition making Mr Curtis subject to the supervision of the Director-General and required to obey all reasonable directions as to counselling or treatment for his mental health and his abuse of alcohol and other drugs). In imposing this sentence, Refshauge J took into account Mr Curtis’ plea of guilty. He also took into account the subjective circumstances of Mr Curtis including his troubled childhood, his relationship with his 20 month old child, his current committed relationship, his use of alcohol and illicit substances, and his history of mental health issues (See [6]-[19]).

Refshauge J also took into account that the offence was serious especially because it was committed in the context of a relationship. His Honour quoted Higgins CJ in *R v Bell* [2005] ACTSC 123 at [30]: ‘*I appreciate that personality disorders may often underlie the criminal behaviour of men who beat women. Alcohol or other substance abuse may sometimes be a triggering factor. Nevertheless, they must take responsibility for their actions and be seen to have done so. The offence is often hidden, so general deterrence is a factor that is quite prominent. So also is specific deterrence. No offender engaging in this kind of behaviour, nor their victims, should feel that it is to be treated lightly. Rather, it must be made the subject of condign punishment. That is not to say, of course, that any mitigatory factors or prospects for rehabilitation will be disregarded*’ (See [28]-[32]).

Refshauge J further accepted that the youth of Mr Curtis and his prospects for rehabilitation were very relevant to the sentencing exercise. Per His Honour, *'for youthful offenders rehabilitation is usually more important than general deterrence, especially when retributive punishment may in fact lead to further offending. A youthful offender should not be sent to an adult prison if it can be avoided'* (See [20]). A lengthy good behaviour order was warranted in light of the need for rehabilitation. In this context, His Honour noted the influence of excessive alcohol on the offending which, although not mitigating the offending, was very relevant to rehabilitation (See 36].

See also *R v Curtis (No 2)* [2016] ACTSC 34 (26 February 2016).