

***R v Ennis* [2014] ACTSC 369 (4 November 2014) – Australian Capital Territory Supreme Court**

‘Anger management programs’ – ‘Assault occasioning actual bodily harm’ – ‘Drug and alcohol programs’ – ‘Good behaviour order’ – ‘People affected by substance misuse’ – ‘Physical violence and harm’ – ‘Rehabilitation’

Hearing: Breach of community service condition to a good behaviour order.

Facts: In 2012, Mr Ennis was convicted for assault occasioning actual bodily harm. Mr Ennis and his female partner, who had been together for 27 years, were both drunk and fought ‘over money’. During this argument, Mr Ennis caused his partner to suffer a fracture to the left forearm and a laceration to the outside of her lower leg. Mr Ennis had a long history of cannabis and alcohol abuse. He claimed that this alcohol abuse led to his criminality. The sentencing judge made a good behaviour order for 2 years, with a condition that Mr Ennis perform 100 hours of community service within 12 months. Mr Ennis breached this order by failing to complete the community service work conditions. He submitted that the breach was the result of his alcohol abuse.

Issue/s: Whether further action is warranted in light of Mr Ennis’ breach of a good behaviour order.

Decision and Reasoning: The order was amended by extending the good behaviour period to a further 12 months, extending the number of hours of community service work to 108 hours to be completed in 12 months, and requiring Mr Ennis to be subject supervision by the Director-General. In imposing this sentence, Refshauge J noted that while Mr Ennis’ breach was unsurprising in light of his alcohol abuse, this did not provide an excuse for his behaviour (See [16]). In favour of Mr Ennis, it was significant that he had not committed any offences in the two years since the order was made. His Honour noted, *‘This is a very important matter, for that is the fundamental objective of the criminal law, namely, as Brennan J described it in Channon v The Queen (1978) 33 FLR 433 at 437, the protection of society which is achieved by the prevention of crime and the eradication of recidivism’* (See [21]).

Further, Mr Ennis had taken steps towards rehabilitation namely, enrolling in a number of programs including drug and alcohol counselling, a Men and Anger Program and an Employment Pathway Plan (See [23]-[27]). Mr Ennis’ partner was also addressing her alcohol abuse and they were both accessing counselling at relationships Australia (See [28]). However, Refshauge J remained sceptical in his assessment of this reform and nevertheless extended the good behaviour order (See [30]-[33]).

His Honour noted: *Despite the considerable contribution that illicit drug use makes to criminality in the community, alcohol remains a problem for those addicted to it. Alcohol abuse remains a very significant source of crime and leads the addict to unhealthy and anti-social behaviour and situations* (See [1]).

See also *R v Ennis* [2016] ACTSC 72 (4 April 2016).