

***R v Williams* [2015] ACTSC 406 (18 December 2015) – Australian Capital Territory Supreme Court**

‘Anger management programs’ – ‘Assault occasioning bodily harm’ – ‘Brother’ – ‘Deterrence’ – ‘Drug and alcohol programs’ – ‘Family members’ – ‘Physical violence and harm’

Charge/s: Recklessly inflicting grievous bodily harm.

Hearing: Sentencing hearing.

Facts: After arguing with his brother, Mr Williams chased his brother down the street. He caught up with his brother and hit him with a guitar, rendering him unconscious. Mr Williams’ brother was found to have a depressed skull fracture and a haematoma on his brain. He underwent surgery and spent three weeks in hospital before being moved to a rehabilitation facility.

Decision and Reasoning: This was a serious offence, especially because it involved family violence. The offence was not premeditated but was aggravated because it took place at a time when Mr Williams was already subject to a NSW good behaviour order made in connection with an earlier family violence offence (against Mr Williams’ former partner). Further, Mr Williams tried to minimise his actions. The injuries sustained by his brother were quite serious (See [11]-[22]). Penfold J also had regard to Mr Williams’ subjective circumstances including his extensive criminal history (See [23]-[26]). He noted that Mr Williams had attended some anger management and drug and alcohol programs but these had not had an effective rehabilitative impact (See [27]-[31]).

In terms of general deterrence, His Honour noted, ‘*This is an offence of a kind that requires general deterrence, and in some cases at least, general deterrence may be effective. I note defence counsel’s comment that general deterrence in relation to the grievous bodily harm offence is particularly relevant in relation to “glassing” offences, but I consider that deterring violence within the family is at least as important as deterring alcohol-fuelled violence between strangers or acquaintances*’ (See [33]). Personal deterrence was also relevant on the facts (See [34]). Penfold J sentenced Mr Williams to three years imprisonment with a non-parole period of 18 months.