

***R v Brown* [2015] ACTSC 65 (5 March 2015) – Australian Capital Territory Supreme Court**

‘Emotional abuse’ – ‘Mitigating factors’ – ‘People with mental illness’ – ‘Perjury’ – ‘Physical violence and harm’ – ‘Sentencing’ – ‘Where the offender is also a victim’

Charge/s: Perjury.

Proceeding: Sentence.

Facts: The defendant gave false evidence in a bail application involving an allegation of assault that had been made against her ex-partner. It was alleged that her ex-partner assaulted his mother. The defendant’s ex-partner also assaulted her prior to the alleged assault on his mother. A psychologist’s report indicated that the defendant was suffering from ‘a major depressive disorder of moderate severity’ (see at [4]) when she was in a relationship with her partner. The report described the relationship as physically and emotionally abusive which resulted in a gradual deterioration of the defendant’s mental health and reported low self-worth and feeling overwhelmed. Notwithstanding this, she felt that her partner was the only person who she could rely on. The defendant had no prior convictions. She was 18 years old when the offence occurred.

Issue/s: The appropriate sentence to be imposed.

Decision and Reasoning: The defendant was ordered to enter into a good behaviour order for 15 months with conditions that she accept the supervision of ACT Corrective Service and not to associate with her former partner. No conviction was recorded. Burns J noted that this offence, while serious, was at the lower end of the spectrum for offences of this nature. His Honour accepted that her mental illness affected her judgment and also noted the fact she was in a controlling relationship with her ex-partner. The defendant had good prospects of rehabilitation. The offence of perjury is serious and normally results in the recording of a conviction and imprisonment. However, in this case, the mitigating factors including her youth and mental illness meant that rehabilitation, rather than general deterrence were the primary sentencing considerations. His Honour warned the defendant that relationships like those with her ex-partner are characterised by a significant degree of manipulation and that the defendant ought to be aware of the likelihood of her ex-partner to attempt to recommence the relationship using protestations that he has changed and is going to behave in a different way. He urged the defendant to be mature enough to understand that such change is not going to happen.