

## ***R v Eimerl* [2015] ACTSC 72 (12 March 2015) – Australian Capital Territory Supreme Court**

‘Damaging property’ – ‘Drug and alcohol programs’ – ‘Emotional and psychological abuse’ – ‘Family members’ – ‘Forcible confinement’ – ‘Parent/s’ – ‘People affected by substance misuse’ – ‘Theft’

Charge/s: Forcible confinement, damaging property, theft.

Hearing: Sentencing hearing.

Facts: The offender, who was on parole at the time, confined his mother in her home for 2 hours. During the course of confinement, the offender verbally abused his mother, threatened violence and damage to property, and damaged a heater and a wooden cedar door. The offender’s anger was based on his belief that his parents were communicating with Corrective Services, putting in jeopardy his parole order. His parents were in fact communicating with Corrective Services because they were concerned he had resumed his methamphetamine use. The offender completed a substance misuse program before being paroled in 2013. His initial response to parole supervision was satisfactory — his urinalysis results were negative and he obtained employment. However, at the time of the confinement, he had resumed his methamphetamine use.

Decision and Reasoning: A sentence of 2 years and 1 month imprisonment was imposed. Burns J took into account the circumstances of the offence (it was committed out of anger and a sense of betrayal, it caused a significant degree of fear but no injuries were inflicted). His Honour also noted the guilty plea, the youth of the offender and that rehabilitation was an important consideration (however, this had to be ‘considered guarded’ (see[16])). There was a need for both general and specific deterrence.

His Honour further took into account that this was a family violence matter and stated, ‘that is relevant because the only reason that you were able to commit this offence was because of the relationship of trust that existed between you and the victim. If you had not been a family member who was loved and trusted by your victim you would not have had the opportunity to commit this offence. I also note that the offence occurred in the victim's own home, where she should have been entitled to feel safe’ (See [17]).