

## ***R v Ennis* [2016] ACTSC 72 (4 April 2016) – Australian Capital Territory Supreme Court**

‘Assault occasioning bodily harm’ – ‘Good behaviour order’ – ‘People affected by substance misuse’ – ‘Physical violence and harm’ – ‘Rehabilitation’

Hearing: Breach of good behaviour order.

Facts: In 2012, Mr Ennis was involved in an altercation with his female partner of 27 years. He was convicted of assault occasioning actual bodily harm and was subject to a good behaviour order for 2 years with a condition to perform 100 hours of unpaid community service work. In 2014, Mr Ennis breached this order by failing to perform the community service work (‘the first breach’). The good behaviour order was extended by 12 months and Mr Ennis ordered to perform 108 hours of community service work (See *R v Ennis* [2014] ACTSC 369 (4 November 2014)).

However, before the end of the good behaviour order in 2015, Mr Ennis breached the order again (‘the second breach’). Mr Ennis and his partner, who had been drinking alcohol, argued outside their house. Mr Ennis pulled her by her hair and dragged her inside. He let her go and slammed the door in her face (common assault). In March 2016, a magistrate sentenced Mr Ennis to 5 months imprisonment, suspended immediately, and made a good behaviour order for 18 months with various conditions. His Honour then referred the matter to Refshauge J for breach of the good behaviour order that had been extended upon Mr Ennis’ first instance of breach.

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

Decision and Reasoning: While Mr Ennis complied with nearly 2 years of the original good behaviour order without breach constituted by further offence and nearly 9 months of the additional period ordered by Refshauge J, Mr Ennis had failed at his attempts at rehabilitation. This offending was also facilitated by the consumption of alcohol. Further, the nature of offending was serious. Per Refshauge J, *‘It is, as his Honour Magistrate Morrison said, a family violence offence, and it is serious in that it was the commission of the offence against the same victim, although many years apart. It is a similar offence also, in that it is an assault and another family violence assault. Nevertheless, it is a much less serious version of the offence, although in this case, because of the earlier history, it attracted a sentence of imprisonment, although suspended’*. It was relevant that Mr Ennis’ partner had moved away and it was unlikely that the relationship would resume in the near future (See [15]-[22]). Accordingly, the duration of the good behaviour order was extended to 2 years to run from the date of this decision.