

***R v Kulczycki* [2018] ACTSC 9 (30 January 2018) – Australian Capital Territory Supreme Court**

‘Blackmail’ – ‘Emotional and psychological abuse’ – ‘History of breaches of protection orders’ – ‘Revenge porn’

Charges: Blackmail x 1; Stalking x 1.

Case type: Sentence.

Facts: The defendant and complainant were in a relationship for 2 years. They sometimes filmed consensual sex ([6]-[7]). After the relationship broke down, the defendant sent the complainant emails and text messages threatening to release the video unless the complainant paid him \$20,000 ([8]-[9]). The complainant obtained a protection order, and the defendant breached the order three times ([11]).

Issues: Sentence to be imposed.

Decision and Reasoning: Elkaim J remarked on the seriousness of the blackmail in the context of a domestic relationship at [16]: ‘blackmail of the type involved in this case must be regarded as serious. This is not so much because of the amount of money demanded but because it involved a threat to breach the privacy of a relationship and to cause severe embarrassment to the complainant’. While the defendant had promising prospects of rehabilitation and had taken steps to reduce his consumption of illicit drugs, Elkiam J considered that a period of imprisonment was necessary ([21]-[22]). The defendant was sentenced to a head sentence of 9 months’ imprisonment, to be served concurrently with 6 months’ imprisonment for stalking [22].

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