

***R v Taylor (No 2)* [2008] ACTSC 97 (12 September 2008) – Australian Capital Territory Supreme Court**

‘Contravention of a protection order’ – ‘Following, harassing, monitoring’ – ‘Good behaviour orders’ – ‘People affected by substance misuse’ – ‘Perpetrator programs’ – ‘Protection order’ – ‘Purpose of sentencing’ – ‘Rehabilitation’ – ‘Subjective circumstances’ – ‘Suspended sentence’

Charge/s: Contravention of a protection order.

Hearing type: Sentencing hearing.

Facts: On 16 January 2007, the offender was found guilty for breaching a Domestic Violence Protection Order, protecting Ms Perrin (with whom he had two children). He drove past Ms Perrin’s residence, yelled at her, and summonsed another man at the premises to fight him. The offence was committed in breach of two earlier imposed and unrelated good behaviour orders for aggravated robbery and assault occasioning bodily harm (‘the 2004 offences’). Accordingly, it fell to Rares J to sentence the offender for the breach of the protection order and re-sentence the offender for the 2004 offences. At the time of sentencing, the offender and Ms Perrin had reconciled.

Decision and Reasoning: The offender was sentenced to 12 months imprisonment, wholly suspended with conditions [2]. In sentencing the offender, Rares J was satisfied that the offender had made a serious and concerted effort to turn his life around — the offender had stopped taking cannabis and alcohol, had obtained employment, paid for his own attendance with Ms Perrin at a Relationships Australia course, and had the support of his family and Ms Perrin’s family to make a good life for their children. His Honour also took into account the fact that he had pleaded not guilty to the offence of breaching the domestic violence order and that he had a prior criminal history.

Rares J noted that while he did not want to undermine the offender’s ‘terrific’ improvement, a penalty had to be crafted that appropriately reflected the offender’s criminality, the seriousness of the conduct and general deterrence. His Honour noted:

‘In many, many cases before the courts, the subjective impact of a punishment on an offender once brought to justice can be seen to be great. But to do justice according to law, must be to uphold the laws themselves and their purpose to ensure that we all obey the law. The community must know that offenders, whatever their personal circumstances are, receive a punishment that is appropriate and recognises the seriousness of the offending and the breaches of the community’s standards embodied in its criminal laws’ at [17].