

***Jeffries v The Queen* [2008] NSWCCA 144 (26 June 2008) – New South Wales Court of Criminal Appeal**

‘Aggravated kidnapping’ – ‘Aggravating factor’ – ‘Exposing children’ – ‘Physical violence and harm’ – ‘Protection order’ – ‘Sentencing’

Charge/s: Detain for advantage and cause actual bodily harm, detain for advantage.

Appeal Type: Appeal against sentence.

Facts: The victim of the aggravated kidnapping was the male applicant’s domestic partner (AW) and the victim of the kidnapping offence was AW’s 15 year old daughter, KW. The relationship between the applicant and AW had been marked by incidents of physical violence. At the time of the offence, AW had obtained an apprehended domestic violence order (ADVO) against the applicant. The applicant physically assaulted and verbally abused AW and KW, including partially ripping AW’s tongue. There was a knock on the door during the incident and someone called out, ‘It’s the police’. The applicant told AW and KW not to say anything. AW and KW were unable to leave the house that night. The applicant was sentenced to seven years and six months imprisonment.

Issue/s: One of the grounds of appeal was that the sentence was manifestly excessive.

Decision and Reasoning: The appeal was dismissed. The sentence was not manifestly excessive in light of the objective seriousness of the offences and the absence of any subjective factors operating in the applicant’s favour (at [99]). The offences involved the protracted detention of AW and KW for the advantage of fending off police intervention with respect to the applicant’s violence against both victims. They were committed in the context of the applicant’s controlling and violent relationship with the victim, and he inflicted actual bodily harm of a serious (and bizarre) type on AW. Great fear was instilled in both victims (See [90]).

Significant aggravating factors existed on the facts namely, that the offences were committed whilst the Applicant was on bail for an offence of violence committed against AW and was subject to an apprehended domestic violence order intended to control his conduct towards his domestic partner. These were flagrant violations of both forms of conditional liberty intended to protect AW (See [91]). It was also a significant aggravating factor that the offender’s ‘recidivist conduct demonstrated a propensity to act violently towards his partners’ (See [92]).