

R v Yeoman [2003] NSWSC 194 (21 March 2003) – New South Wales Supreme Court

‘Battered woman syndrome’ – ‘Difficulty leaving an abusive relationship’ – ‘Expert evidence - psychosocial report - specific experience in drug and alcohol related domestic violence issues’ – ‘Manslaughter’ – ‘People affected by substance misuse’ – ‘Physical violence and harm’ – ‘Where the victim is an offender’ – ‘Women’

Charge/s: Manslaughter.

Hearing: Sentencing.

Facts: The female offender had lived with her male de facto partner, the deceased, for 25 years (since she was 17 years old). The deceased had been violent towards the offender throughout their relationship, including hitting her in the eye with a baseball bat, but she did not have the means to leave the relationship. The deceased would often taunt the offender and dare her to stab him. They both suffered from alcoholism. One evening, the offender was heavily intoxicated and stabbed the deceased in the chest, killing him. At the time, she did not intend to kill him nor did she realise he was dead and she went to bed. The next morning she called the police and made full admissions. The offender’s recollection of events was imperfect because of her intoxication.

Decision and Reasoning: Buddin J had extensive regard to a psychological report prepared by Ms Danielle Castles, who had 17 years’ experience working in the social welfare field, with particular expertise about drug and alcohol issues and domestic violence (See [32]-[35]). Ms Castles commenced her report by explaining the nature of domestic violence and stated at [32] that:

‘domestic violence is the term used to describe the violence and abuse perpetrated upon a partner in a marriage or marriage like relationship. It is essentially the misuse of power and the exercise of control by one person, usually the man, over another, usually the woman. “Women experiencing domestic violence are often subjected to physical, sexual, emotional/psychological, social and economic abuse. Abuse may be overt (physical violence) or it might be deceptively subtle (emotional abuse). It is the interplay between making the woman fearful and reducing her self-esteem which results in the abuse having significant and prolonged effects on the woman.”

The effects of domestic violence are such that women in violent relationships are convinced they are hopeless, that they need to be dependent upon the abuser and could not possibly survive without him. The most significant aspect of prolonged abuse is the gradual breaking down of a woman’s autonomy’.

Ms Castles then set out the ways in which domestic violence impacted upon the offender here (See [33]-[34]).

Buddin J ultimately found that the offender's criminality was at the lower end of the scale of culpability of an offence of this kind i.e. non-intentional homicide in circumstances of tragic misadventure. Her intention was no more and no less than to engage in a desperate and objectively dangerous gesture, without intending any real harm or worse to the deceased. This, in conjunction with the very powerful subjective case advanced on behalf of the offender, meant that an exceptional sentence of a good behaviour bond for four years was appropriate, notwithstanding the fact that a life was taken (See [50]). The subjective factors that mitigated sentence included that 'the offence took place against the background of continuing domestic violence over a prolonged period of time, the impact upon her of which cannot, for the reasons advanced by Ms Castles and others, be underestimated' (See [45]). Buddin J also derived assistance from cases involving 'battered spouse or partner syndrome' (See [48]).