

***R v Biles (No 2)* [2017] NSWSC 525 (3 May 2017) – New South Wales Supreme Court**

‘Aboriginal and torres strait islander people’ – ‘Murder’ – ‘Pattern of behaviour’ – ‘People affected by substance misuse’

Charges: Murder x 1.

Case type: Sentence.

Facts: The offender was found guilty at trial of murdering the victim, his 18-year-old girlfriend and mother of his child ([2]). Both were of Aboriginal descent ([32]). He had frequently been violent towards her over their relationship of two years ([8]). The murder occurred after both had consumed alcohol throughout the day ([13]). Six other women were in the house ([4]). The offender dragged her from the kitchen into the bedroom ([15]). There were no witnesses to the attack in the bedroom, but witnesses gave evidence that the deceased screamed for approximately twenty minutes before falling silent ([17]). When the police arrived, the bedroom was covered in blood, and she was declared dead at the scene ([21]). She had injuries consistent with multiple blows to the head ([24]).

Issues: Sentence to be imposed.

Decision and Reasoning: Fagan J sentenced the offender to 24 years’ imprisonment, with a non-parole period of 18 years.

His Honour considered that the murder was in the middle of the range of objective seriousness ([31]). He considered that the deceased’s young age, vulnerability, and the fact that the offender lied to other women who tried to intervene, all contributed to the seriousness of the offence ([31]).

His Honour examined the offender’s personal circumstances ([32]-[38]). His verbal comprehension was in the lowest 1% of the general population, a circumstance which contributes to a higher propensity to violence ([34]). He had a criminal history since 15 years old ([39]), but he proved unresponsive to good behaviour bonds and community service orders ([42]-[47]).

His Honour considered that these offences were the culmination of a course of domestic violence (see from [52]). His Honour remarked at [52]:

‘The experience of courts in this State has shown that men who perpetrate violence against their female partners do not stop after one occurrence. Often they become accustomed to inflicting violence of escalating severity.’

On the failure of the other women in the house to call the police, his Honour said [55]:

‘The apparent lack of a sense of urgency amongst the other women in the house ... may have been due to resignation amongst them; a feeling that to some extent domestic violence is inevitable and must be endured and, perhaps, that it is a matter private to the couple, in which others should not interfere. None of that is so.’