

***R v Jenkin (No 10)* [2018] NSWSC 705 (18 May 2018) – New South Wales Supreme Court**

‘Audio visual link’ – ‘Fair hearing and safety’ – ‘Physical violence and harm’ – ‘Safety and protection of witnesses’ – ‘Tendency evidence’

Charges: Murder x 1.

Case type: Applications to adduce evidence from former partner of accused and to give evidence via video link.

Facts: The defendant was on trial for murder of an associate. The prosecution sought to adduce evidence from the defendant’s former partner describing assaults he committed against her while he was on drugs ([5]). The prosecution sought to establish a tendency to ‘detain persons and to intimidate and physically assault them’ ([3]).

Issues: Whether the evidence should be admitted.

Decision and Reasoning: Most of the evidence was not admitted because it did not show that the accused had a tendency to detain persons ([8]). One paragraph of the evidence was admitted because it evidenced the defendant locking her in a room and making sure she couldn’t leave ([14]). While the evidence concerned uncharged acts of violence, the judge considered that there was little risk of prejudice given that the trial is a judge-alone trial ([14]).

The former partner applied to give evidence via videolink after evidence from psychologists stated that giving evidence would be an extremely stressful situation. The judge accepted that using the videolink facility would reduce her trauma. The defence’s ability to assess her credibility was not significantly compromised ([18]).