

## ***R v Murgha* [2012] QCA 255 (24 September 2012) – Queensland Court of Appeal**

**Note this case was decided under now superseded legislation however the case contains relevant statements of principle.**

‘Breach of domestic violence order’ – ‘Deterrence’ – ‘Grievous bodily harm’ – ‘Physical violence and harm’ – ‘Sentencing’ – ‘Victim’

Charge/s: Grievous bodily harm, breach of domestic violence order.

Appeal Type: Appeal against sentence.

Facts: The applicant pleaded guilty to doing grievous bodily harm (GBH) to his de facto partner and breaching a domestic violence order. The offending was committed during the operational period of six suspended sentences. It involved the applicant throwing a knife at his partner who was pregnant. The knife became embedded in her skull. He was sentenced to three years’ imprisonment for the GBH offence and was convicted but not further punished for the breach offence.

Issue/s: Whether the sentence was manifestly excessive.

Decision and Reasoning: McMurdo P (Holmes JA and Henry J agreeing) dismissed the appeal and held that the sentence was appropriate. Mitigating factors included his remorse and cooperation with police, his lack of similar criminal history, good rehabilitation prospects and his good standing in the community. The complainant also tendered a letter stating that: she wanted their child to grow up knowing their father; they planned to reconcile and that she found it hard to cope as a single parent. Notwithstanding, the sentencing judge correctly imposed a deterrent sentence. The primary judge noted that ‘the use of knives in domestic disputes on Palm Island was all too common’, which required a deterrent sentence. Other relevant factors included the fact the offence constituted a breach of a DVO and occurred while the applicant was subject to suspended prison sentences.