

***R v Friday* [2005] QCA 440 (30 November 2005) – Queensland Court of Appeal**

‘Physical violence and harm’ – ‘Sentencing’ – ‘Wounding’

Charge/s: Wounding.

Appeal Type: Appeal against sentence.

Facts: The applicant and the complainant were in a de facto relationship. While intoxicated early in the morning, an argument started after the applicant alleged that she was seeing other men. The applicant got off the bed then stabbed her through the upper arm and side of the chest. The wound did not damage internal organs, but required deep and superficial stitches. He had a criminal history, consisting of various violent offences, and one offence of breaking and entering and committing an indictable offence. He pleaded guilty to wounding and was sentenced to three years’ imprisonment with no recommendation for post-prison community based released. This sentence was made cumulative upon an existing six month sentence that he was already serving. The sentencing judge referred to the need to deter others from obtaining a knife and stabbing someone just because of an argument. This conduct was prevalent on Palm Island, where the offence occurred. He was also sentenced for breaches of an intensive correction order and a domestic violence order.

Issue/s: Whether the sentence was manifestly excessive.

Decision and Reasoning: The appeal was upheld. The applicant submitted that if the sentencing judge had moderated the sentence for the mitigating factors (such as the guilty plea, the applicant’s age and an apology made to the complainant), then the starting point must have been four years, which is outside the permissible range of sentences for this type of offence. The Court agreed and suspended the three year sentence after nine months, with an operational period of three years.