

## ***Bradshaw v Tasmania* [2009] TASSC 22 (9 April 2009) – Supreme Court of Tasmania**

‘Deterrence’ – ‘Exposing children’ – ‘People affected by substance misuse’ – ‘Physical violence and harm’ – ‘Sentencing’ – ‘Unlawful assault causing bodily harm’

Charges: Unlawful act intended to cause bodily harm (2 counts), Aggravated burglary

Appeal type: Appeal against sentence

Facts: The male appellant had lived with the female complainant and her 7 year old daughter for over a year before the offending occurred. The relationship was violent and the complainant accordingly obtained a family violence order requiring the appellant not to threaten, harass or abuse the complainant, to keep the peace towards her, and not to damage any property at her home. The order was in place at the time of the offending. The appellant committed a series of offences against the complainant and they ceased cohabiting together. Following this, the appellant broke into the complainant’s house and stabbed her twice to her right side. He took a few steps away before turning back and stabbing her again twice to her left side. The complainant was holding her daughter at the time of the attacks. The appellant was sentenced to six years’ imprisonment with eligibility for parole after four years.

Issue: Whether the sentence was manifestly excessive.

Decision and Reasoning: The appeal was rejected by all judges but with separate reasoning provided. Tennent J (with whom Porter J agreed) found that while there were mitigating factors (remorse, giving himself up, and pleading guilty), the applicant committed very deliberate acts of violence in the complainant’s own home when he had no right to be there and there was a need for both personal and general deterrence ([35]-[36]). The appellant was sentenced for two particularly serious crimes. The stabbings occurred very close together but constituted two crimes because the appellant walked away and made a conscious decision to return and stab the complainant again ([33]). Further, the appellant committed a number of other offences and showed a complete disregard for orders of the court. He caused significant, long-term physical and psychological damage to both the complainant and her daughter ([34]).

In a separate judgment, Evans J also held that the sentence was not manifestly excessive in light of the totality of the appellant’s criminal conduct. The appellant’s criminal conduct was particularly serious. It was not impulsive. He went to the complainant’s home intending to inflict harm and acted in contravention of both a bail condition and a family violence order. One of the wounds he inflicted could have been fatal. The appellant also had prior convictions for violence and carrying weapons. His attack had a profound adverse impact on the complainant ([13]-[14]).