***Mayne v Tasmania* [2017] TASSC 38 (29 June 2017) – Supreme Court of Tasmania**

'General deterrence' – 'Sentence' – 'Smothering' – 'Strangulation'

Charges: Common assault x 1.

Appeal type: Appeal against sentence.

Facts: The defendant and complainant had a child together but were not living together. The complainant and defendant were arguing while the complainant was lying in bed. The defendant pushed a pillow onto her face, causing her to struggle for breath for two to five seconds ([3]). The complainant did not suffer any physical injuries. The defendant pleaded guilty and was sentenced to 7 months' imprisonment ([13]).

Issues: Whether the sentence was manifestly excessive.

Decision and Reasoning: The sentence was not manifestly excessive. Wood J held that the Magistrate was right to highlight the aggravating factors of the offence, including that smothering is a dangerous act, the defendant did not stop of his own accord, and it would have been a terrifying experience for the complainant ([41]). While the sentence was high, it was appropriate to give prominence for general deterrence ([43]).

Wood J said at [43]:

> … it is important that deterrent sentences be imposed not merely for crimes that cause grave physical or psychological harm to victims. There is a need to counter the perception that somehow violence of this kind in the home is less serious than the same kind of violence inflicted on a stranger in a public place. Also, acts of violence committed in a family or domestic context causing fear and distress to victims can have debilitating effects upon their well-being or the well-being of a family member witnessing such violence. It is not only violence resulting in visible injury that must be seen as unacceptable, and these victims, as vulnerable members of our society who have experienced fear and trauma, are entitled to the court's protection.