

## **Saxton v R [2017] VSCA 357 (5 December 2017) – Victorian Court of Appeal**

‘Appeal against sentence’ – ‘Assault’ – ‘Controlling behaviour’ – ‘Financial abuse’ – ‘Mental health’ – ‘Suicide threat’ – ‘Women’

Charges: Recklessly cause injury x 4; Common law assault x 1.

Appeal type: Appeal against sentence.

Facts: The applicant and victim were married and had two children. The applicant worked as a solicitor and the wife, the victim, as a librarian. The applicant had an epileptic seizure, which caused him to stop work and his mental health to decline. The applicant became increasingly controlling of the victim, forcing her to relinquish her financial independence and remain at home with him rather than going to work. The ‘recklessly cause injury’ charges occurred when the applicant punched and hit the victim at home and in their bed. The common assault charge occurred when the applicant twisted her arm so violently that her arm broke. The applicant threatened suicide, and the victim went to the police (see [5], the remarks of the sentencing judge).

The applicant was sentenced to 7 months and 14 days’ imprisonment and a 2-year community correction order ([1]).

Issues: Whether the sentence was manifestly excessive.

Decision and reasoning: The appeal was dismissed (see [28]). The applicant argued that the injuries sustained were at the lower end of the scale, and the broken arms was not intended ([21]). The Court did not accept that submission. Justices Santamaria and Coghlan JJA stated that the offending was ‘serious’ and stemmed from an ‘abusive relationship between the applicant and the victim, who was vulnerable and frightened of the applicant’ ([29]). The Court quotes *Kalala v The Queen* [2017] VSCA 223, discussing the scourge of domestic violence:

The trial courts of this State are imposing sentences for family violence offences with increasing frequency. This Court has repeatedly emphasised the need to condemn family violence, in line with community expectations. In *Filiz v The Queen* [2014] VSCA 212 [23], the Court acknowledged the ‘shameful truth’ that family violence is a leading cause of illness, disability and death among Victorian women aged between 15 and 44.

The Court concluded that the principles of general deterrence and denunciation loomed large in the present case, and the sentence was, if anything, merciful ([31]).