

***R v Kibble* [2002] VSC 52 (1 March 2002) – Supreme Court of Victoria**

‘Intentionally cause serious injury’ – ‘Physical violence and harm’ – ‘Relevance of prior relationship’ – ‘Right to leave a relationship’ – ‘Sentencing’

Charge/s: Intentionally cause serious injury.

Hearing: Sentence hearing.

Facts: The female victim ended her relationship with the male offender and gave him money to fly back to London, where he was from. Upon returning to England, the offender felt humiliated and angry and decided to return to Australia to punish the victim. He purchased a rubber mallet to break into the victim’s house and a roll of duct tape. When the victim arrived home, the offender started stabbing her with a knife. She managed to fight him off and called the police.

Decision and Reasoning: This offence was serious. As per Gillard J at [57]:

‘A person in a relationship with another has every right to terminate the relationship and walk away without fear of reprisal. Too often, upon the termination of a relationship, the physically stronger person pursues a course of conduct of harassment and violence towards the other person. That is what has happened here. Your conduct was serious and has had a long-lasting, emotional effect upon the victim. The Legislature views any offence under s16 as serious. The circumstances surrounding the commission of this offence supports that conclusion and you are guilty of a high level of criminality’.

There were a number of factors that aggravated the offending namely that the conduct was premeditated, the offender waited for the victim in her home, his conduct caused the victim terror and fear, and the conduct had a long-lasting emotional effect on the victim. His Honour was satisfied that specific deterrence was not warranted on the facts but that general deterrence was important i.e. the sentence had to send a message to those who are like-minded to use their superior physical strength to punish a partner in a relationship after it has terminated.

His Honour also took into account a number of mitigating factors namely, the offender frankly admitted his involvement, he pleaded guilty at the first opportunity, there was no criminal history, the physical injuries were at the lower end of the scale, the sentence would be onerous because the offender was English, the offence was out of character, it was unlikely he would reoffend, and his prospects for rehabilitation were good. The offender was sentenced to six years imprisonment with a non-parole period of four years.