

Re Williams [2018] VSC 76 (23 February 2018) – Victorian Supreme Court

*Note: this case was decided under now superseded legislation however the case contains relevant statements of principle.

‘Application for bail’ – ‘Challenge to complainant's evidence’ – ‘Physical violence and harm’ – ‘Show cause’ – ‘Word-on-word case’

Charges: Intentionally causing injury x 3; Recklessly causing injury x 5; Unlawful assault x 3; Contravening family violence intervention order x 3.

Case type: Bail application.

Facts: The applicant and the complainant had been in a relationship for 10 years and had 2 children ([2]). The complainant alleged three events forming the basis of the charges. First, the applicant kicked and punched her, drove her to the hospital, dragged her from the car and left her at the entrance. Second, the applicant chased her in his car, dragged her out of her car, and punched her. Third, the applicant forced his way into her house, urinated on her, and punched her ([14]-[22]).

Issues: The applicant was required to ‘show cause why his detention was not justified’, under s 4(4)(ba)(i) of the *Bail Act 1977* (Vic).

Decision and Reasoning: Bail was refused.

The applicant argued that he was entitled to bail because he had stable accommodation, was willing to comply with strict bail conditions, and that the prosecution case was not strong because it relied mostly upon the complainant’s evidence. The applicant intended to challenge the credibility of the complainant ([24]). The prosecution argued that the applicant had a lengthy criminal history including violence, has shown disregard for previous family violence intervention orders, and has committed offences while on bail ([47]-[48]).

Justice Champion at [57]-[59] discussed the applicant’s contention that the prosecution case is weak because it relies on the complainant’s evidence:

... the prosecution points out that cases involving family violence frequently involve ‘word on word’ evidence and that this is often the very nature of these types of cases. The prosecution submits that this circumstance does not of itself warrant the prosecution case as being regarded as weak, or without merit.

It is clear enough that the case will be strongly defended, and that there are arguable issues to be decided. That said, it was not submitted to me that the case should be regarded as inherently weak.

From what I have been able to glean in this application I cannot conclude that the prosecution case is weak.