

## ***R v Palmer* [2020] ACTSC 13 (3 February 2020) – Australian Capital Territory Supreme Court**

‘Choking’ – ‘Guilty plea’ – ‘History of abuse’ – ‘Non-fatal strangulation’ – ‘Physical violence and harm’ – ‘Victim history of trauma and abuse’

Charges: Burglary x1; Assault occasioning bodily harm x1; Choking a person and rendering them insensible x1;

Proceedings: Sentencing

Issue: Appropriate sentence

Facts: The male offender was convicted on his pleas of guilty. The female victim was his former partner. He entered her house while she was asleep and remained in the property despite the victim asking him to leave. The offender assaulted the victim after a verbal argument and choked her so as to render the victim unconscious. The offender had a significant criminal history and had been dealt with in the Magistrate’s Court for other offending against the same victim. He attributed his violent and abusive behaviour towards the victim to his struggles to cope with the victim’s psychosocial difficulties due to her long history of trauma and abuse [13].

Held: Justice Elkaim sentenced the accused to 10 months imprisonment for the burglary, 5 months’ imprisonment for the assault, and 20 months imprisonment for the choking offence. The sentences were to be served concurrently.

Elkaim J found the offence of burglary to have "just below medium objective seriousness" [6]. His Honour noted that "Although s 10 of the Crimes (Sentencing) Act 2005 (ACT) says full-time imprisonment should be a last resort, I can see no alternative here. Domestic violence is abhorrent. Choking a person is a serious crime. The offender should not have been anywhere near his victim. He was already on bail for family violence offences against the same victim. When she told him to leave he should have done so. He should not have assaulted her and he certainly should not have choked her." [15]. The seriousness of the offence and the domestic violence were aggravating factors and a 15% discount for the guilty plea was allowed.