

R v NX (No 2) [2019] ACTSC 131 (24 May 2019) – Australian Capital Territory Supreme Court

‘Coercive control’ – ‘Damaging property’ – ‘Extensive criminal history’ – ‘History of domestic violence offences’ – ‘Offender on conditional liberty at the time of offending’ – ‘Presence of child’ – ‘Sentencing’ – ‘Social abuse and isolation’

Charges: Sexual assault in the third degree x 1, sexual intercourse without consent x 1; assault occasioning actual bodily harm x 3; common assault x 2; capturing visual data in circumstances where the capture is an invasion of privacy and indecent x 1; damage to property x 3.

Proceedings: Sentence.

Facts: The male offender and female victim had been in a relationship since 2017. The offences took place over three days.

While the victim was driving her car with the offender in the passenger seat the offender took the victim’s mobile phone, snapped it in half and threw the pieces out of the car window. That afternoon he headbutted her in the middle of the forehead causing her pain and told her to “get the fuck out” of the house. The victim left the residence on foot with her son as the offender had taken her car keys. [5]

While she was gone the offender slashed two of the car’s tyres with a knife.[6] When the victim returned the offender told her that he had lost her keys and that somebody had popped the tyres of her car. He told her to go inside the house otherwise he would “start shit” with the victim’s flatmate. [7]

Later that night the offender held a Stanley knife with the blade out to the victim’s throat and near her face and directed her to “suck [his] dick”. The victim felt forced to do so and the offender filmed the incident. [8]

Two days later the offender attempted to cuddle the victim but she did not wish to cuddle and did not reciprocate. The offender became angry and began yelling. He punched the victim in the back of the head a number of times. The victim tried to put on a dress and the offender ripped it off her then grabbed her left breast and twisted and squeezed it causing pain and bruising. The victim’s son was present. [10]

Decision and Reasoning: Four years and eight months imprisonment with a non-parole period of three years.

In considering the objective seriousness of the offence, Mossop J observed:

The offending had some of the typical features of domestic violence in that it involved attempts to control the victim's behaviour and sought to place responsibility for the offender's unlawful conduct upon the victim. It occurred in circumstances where the victim was particularly vulnerable by reason of the need to care for and protect her small child. [14]