

***R v Heijm* [2021] ACTSC 17 (5 February 2021) – Australian Capital Territory Supreme Court**

‘Grievous bodily harm’ – ‘Misuse of drugs and alcohol’ – ‘Past domestic and family violence’ – ‘Pregnancy of victim’ – ‘Sentencing’

Charges: Grievous bodily harm x 1.

Proceedings: Sentencing.

Facts: The male offender applied force to the face of his pregnant female partner during an argument. The following day the victim’s face was observed to be swollen and red, she had a cut lip and blood coming from her mouth and nose. She attended the hospital and underwent a CT scan which revealed a fractured right eye socket and a blood clot around her right eye. The Forensic Medical Officer opined that her injuries were the result of blunt force trauma. The victim was reluctant to report the incident to police.

Issues: Sentence to be imposed.

Decision and reasoning: An aggregate sentence of 21 months, suspended after 13 months, and a good behaviour order were imposed. This reflected the guilty plea and earlier breaches of good behaviour orders/suspended sentence.

The offending was at the low end of the mid-range of objective seriousness for grievous bodily harm. It was an example of domestic violence, occurred at the victim’s home and while she was heavily pregnant. The offender was on conditional liberty at the time ([11]). Other relevant circumstances included that the offender had a disrupted childhood and an early introduction to illicit drugs. However, notwithstanding the likely lifelong effects of this, the offender was not a young man and there was little evidence of strong motivation to address his drug and alcohol problems. He had a long criminal history, including previous domestic violence offending directed against the same victim. There was a high risk of re-offending ([30]-[34]).

The victim faced difficulty in reporting the offending:

“She disclosed to the hospital staff that she had been injured at home. She also spoke to police but did not want to disclose who had injured her or how it had happened. That evening the offender attended the hospital to see her but was refused entry. The victim told police that she was scared and wanted to speak to the offender in the presence of the police. She did so, before the offender left and she returned inside the hospital.

“DVCS members later contacted police on the victim’s behalf to report that she had been assaulted by the offender. The victim decided that she was prepared to make a statement to police and she participated in a family violence evidence-in-chief interview on 8 February 2020.