

***R v Simonds* [2018] ACTSC 265 (21 September 2018) – Australian Capital Territory Supreme Court**

‘Evidence’ – ‘Physical violence and harm’ – ‘Threats to kill’ – ‘Unlawful confinement’

Charges: Assault occasioning actual bodily harm x 1; Choke, suffocate or strangle x 1; Assault occasioning actual bodily harm x 1; Unlawful confinement x 1; Threat to kill another person x 1.

Proceeding type: Trial by judge alone.

Facts: The accused and the complainant went out to dinner. At about midnight the accused, apparently intoxicated, went out alone. Some hours later, he returned and although not obviously intoxicated, soon became violent. He dragged the complainant, hit her in the face, held a knife to her throat, and detained her in the flat for about four hours. During this time, he threatened to kill her, and demanded information from her about her mobile phone.

Issues: Whether or not the events as described by the complainant occurred; Whether or not the Court could be satisfied beyond reasonable doubt.

Decision and reasoning: A verdict of not guilty was entered as to each of the six counts in the indictment. The Court was satisfied that the complainant ‘was probably telling the truth’, but noted that the required standard was beyond reasonable doubt. Therefore, his Honour could not accept the complainant’s evidence. The emails, particularly, appeared to seriously contradict her version of events, such that they had a significant effect on her evidence being accepted beyond reasonable doubt.