

***R v Curtis (No 2)* [2016] ACTSC 34 (26 February 2016) – Australian Capital Territory Supreme Court**

‘Aboriginal and Torres Strait Islander people’ – ‘Breach of a good behaviour order’ – ‘Deterrence’ – ‘Physical violence and harm’ – ‘Young people’

Hearing: Breach of a good behaviour order.

Facts: Mr Curtis assaulted his female partner by punching her a number of times, causing her bruising. He was charged with assault occasioning bodily harm. In October 2013, Refshauge J sentenced Mr Curtis to 12 months imprisonment, wholly suspended, and imposed a good behaviour order with a probation condition for 2 years (See *R v Curtis* [2013] ACTSC 291 (16 December 2013)). In April 2015, within the period of the good behaviour order, Mr Curtis was found in possession of a number of electronic and other items reasonably suspected of being stolen. In December 2015, he pleaded guilty in the Magistrates Court and was sentenced to a further good behaviour order for 18 months with a community service condition. The magistrate referred the breach of the earlier imposed good behaviour obligations to the Supreme Court.

Issue/s: Whether further action is warranted in light of Mr Curtis’ breach of a good behaviour order.

Decision and Reasoning: The offence subject of the breach was of a different character and less serious to the offence that Mr Curtis was originally sentenced for. This offending was not part of a life of serious criminal offending but a stupid criminal offence prompted by his perceived necessity. Mr Curtis had otherwise complied with the good behaviour order. His Honour was satisfied that this justified re-sentencing Mr Curtis rather than imposing the suspended sentence (See [45]-[49]).

In re-sentencing Mr Curtis, Refshauge J noted the need for general deterrence because the original offence was of family violence. He further noted that *‘Vindication of the victim is always important in family violence offences and, again, the expression of the court’s displeasure with the offending by the imposition of imprisonment will meet that objective’* (See [52]). His Honour further noted Mr Curtis’ youth, his employment, and the birth of his child into a stable relationship (absent any family violence) (See [50]-[55]). Mr Curtis was re-sentenced to 12 months imprisonment to commence from 15 August 2015 (to take into account pre-sentence custody), wholly suspended. His Honour further imposed a good behaviour order for 18 months with probation conditions and a community service condition.

Note: the defendant subsequently breached his good behaviour order (although the breach was not related to further domestic and family violence) and was re-sentenced to 12 months’ imprisonment, wholly suspended (see *R v Curtis (No 3)* [2017] ACTSC 101 (27 April 2017)).