

## ***R v Williams* [2018] ACTSC 354 (18 October 2018) – Australian Capital Territory Supreme Court**

‘Breach of protective bail conditions’ – ‘Control’ – ‘Intensive correction order’ – ‘Physical violence and harm’ – ‘Sentencing’ – ‘Unlawful confinement’ – ‘Women’

Charges: Unlawful confinement x 1; Threat to kill x 1; Inflicting actual bodily harm x 1; Common assault x 2; Aggravated dangerous driving x 1.

Proceeding type: Sentencing and application for an intensive corrections order.

Facts: At the time the offences were committed, the accused was on bail in relation to family violence charges against his partner. The accused’s bail conditions prohibited him from assaulting or intimidating his partner, being near her, having contact with her and from attending her home. While on bail, the accused assaulted his partner, unlawfully confined her and threatened to kill her. When attempting to flee the home, the accused also struck his partner’s current boyfriend with a car, recklessly inflicting actual bodily harm.

Issues: (1) What are the appropriate sentences given the accused’s offences; and (2) is an intensive correction order appropriate for the accused?

Decision and reasoning: Burns J rejected the submission for an intensive corrections order on the grounds that the accused’s imminent deportation from Australia (due to his visa being revoked) made it unlikely that the accused would comply with the order. The accused was instead sentenced to two years and four months’ imprisonment. Burns J reached this decision by considering the relatively low seriousness of the harm inflicted upon the victim; the victim’s vulnerability; and the fact that the accused was on conditional liberty at the time of committing the offences.

Burns J notes at [5] [The offence of unlawful confinement] ‘involved an attempt by you to control the victim by means of intimidation. Some factors which are relevant to determining the objective seriousness of this offence, but also relevant to all of the offences, were that the offences occurred in the victim’s own home and, in fact, in her bedroom. With respect to the particular offence, there was force and intimidation used to stop the victim leaving the room. It occurred in the context of threats being made to the victim. The victim was five and a half months pregnant at the time with your child. There was also another child in the house at the time of the commission of these offences. The offences which occurred with regard to KS, in the first tranche of offending, involved a breach of trust because you were only able to gain access to the premises because you had been in a relationship with the victim.’