

***R v Patsan* [2018] NSWCCA 129 (29 June 2018) – New South Wales Court of Criminal Appeal**

‘Dynamics of domestic violence’ – ‘Physical violence and harm’

Note: On 25 September 2018 Sections 4A and 4B of the *Crimes (Sentencing Procedure) Act* were introduced imposing additional requirements in sentencing for domestic violence offences in NSW.

Charges: Recklessly causing grievous bodily harm x 1.

Case type Application for leave to appeal against sentence.

Facts: The applicant sought an extension of time for leave to appeal against a sentence of 2 years and 3 months imprisonment, with a non-parole period of 1 year and 4 months, for recklessly causing grievous bodily harm to which he pleaded guilty. A further charge of assault occasioning actual bodily harm was taken into account in the sentence.

Issue: The applicant sought to appeal against the sentence on the ground that it was manifestly excessive.

Held: The Court was not persuaded that the sentence imposed was unreasonable or plainly unjust, and consequently, refused leave to appeal against the sentence ([47]-[48]). Importantly, the Court acknowledged the special dynamics of domestic violence. Their Honours rejected the applicant’s submission that the sentencing judge used him as a scapegoat for the prevalence of domestic violence offences. ‘While every sentence imposed must have regard to all the circumstances particular to the specific case, individualised justice does not require sentencing judges to ignore patterns of behaviour which are repeated all too frequently before them’. In most cases, the conduct will involve an attack by a male who is in a position to inflict considerable harm to his victim because of his superior physical strength, and where there is no real prospect of spontaneous physical retaliation because of the disparity between their respective strengths ([39]-[40]).