

## ***Best v Rosamond* [2019] NSWDC 344 (24 July 2019) – New South Wales District Court**

‘Bipolar affective disorder’ – ‘Guilty plea’ – ‘People affected by substance misuse’ – ‘People with mental illness’ – ‘Physical violence and harm’ – ‘Sentencing’

Offences: recklessly causing grievous bodily harm; assault occasioning actual bodily harm (DV).

Proceedings: Sentencing

Facts: The male perpetrator and female victim were married at the time of offending and the male victim was a friend of theirs. The offender became angered after seeing the female and male victims sharing an ‘intimate’ kiss. He punched the male victim in the left eye before pushing the female victim to the ground. He continued to punch the male victim several times in the head and kick him on the left side of his torso until the female victim asked him to stop. The offender turned to the female victim, slapped her forcefully across the face and kicked her thigh while she lay on the ground. The offender left the scene after punching the male victim a few more times. Neither victim provided a statement to police until a year after the offending, despite the male victim being left with substantial injuries requiring surgical treatment.

The offender was heavily intoxicated at the time of offending.

Decision: The offender was sentenced to Intensive Corrections Order for 1 year and 10 months’ and to a Community Release Order or 1 year and 8 months’.

The Court noted that while the offence is a domestic violence offence, the offender’s violence was “primarily directed at the male victim” [53]. The assault occasioning actual bodily harm was at the lower end of the scale. The female victim suffered minor injuries and the force used against her was considerably less than that used against the male victim. Furthermore, while the Court acknowledged her victim impact statement, they found its length and detail to be “disproportionate to the seriousness of the harm that could reasonably be considered to have been caused” [31].

In assessing the objective gravity of the offending and sentencing purposes, the Court considered the fact that the offence was unplanned and in response to some form of provocation, the offending was uncharacteristic of the offender, and that the offender’s bipolar affective disorder had some underlying relevance. A discount was given to recognise the utilitarian benefit of the offender’s guilty plea.