

***R v Casini* [2019] NSWDC 376 (18 June 2019) – New South Wales District Court**

‘Emotional and psychological abuse’ – ‘People affected by substance misuse’ – ‘Physical violence and harm’ – ‘Remorse’

Charges: 1 x aggravated detention, causing actual bodily harm (kidnapping)

Case type: Sentencing

Facts: The offender pleaded guilty to one count of aggravated detention, causing actual bodily harm. The victim and offender had been in an intimate relationship for 5 months and were living together at the time of the offending. The offender was formerly married for 22 years and had 2 children.

Issue: The issue for the Court was to determine the appropriate sentence for the offence.

Held: The offender was convicted, and sentenced to 3 years and 9 months imprisonment with a non-parole period of 2 years and 6 months. In assessing the objective seriousness of the offending, Bright DCJ took into account the following factors ([27]):

- > The conduct was a serious instance of domestic violence;
- > The assault was vicious and sustained, involving multiple forceful blows and punches to the victim’s head and body. The offender would have known that the victim was unlikely to physically retaliate;
- > The offending involved significant emotional intimidation and verbal threats;
- > The nature of the victim’s injuries;
- > The length of the detention was for a period of 2 hours; and
- > The offender sought psychological gratification.

The objective seriousness of the offending was found to be at the higher end of the mid-range ([28]). An aggravating feature was that the offence occurred at the victim’s home ([29]). The offender began using drugs after separating from his former wife, but otherwise described no use of drugs in his adult life ([47]). While the offender’s self-induced intoxication was not a mitigating factor, his underlying Adjustment Disorder was found to have had an impact on his moral culpability ([60]). He was also remorseful, as evidenced by his letter to the Court ([61]-[63]). His Honour was satisfied that the offender had good prospects of rehabilitation, having regard to his motivation to participate in counselling and rehabilitation, previous employment, insight into his offending behaviour and commitment to being a good father upon release ([64]).