

## ***R v Wyatt* [2019] NSWDC 490 (21 June 2019) – New South Wales District Court**

‘Aboriginal and Torres Strait Islander people’ – ‘People affected by substance misuse’ – ‘Physical violence and harm’ – ‘Sentence’

Charges: 1 x wounding with intent to cause grievous bodily harm; 1 x reckless wounding

Case type: Sentencing

Facts: The offender initially pleaded not guilty to the charges of reckless wounding and wounding with intent to cause grievous bodily harm. On the fifth and final day of trial, the offender pleaded guilty to the alternative Count 2. The victim was in an intimate relationship with a woman for about 13 years, with whom he had 2 children. On the day of the offending, the offender stabbed the victim around 3 times.

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

Held: The offender was sentenced to 3 years’ and 3 months’ imprisonment with a non-parole period of 2 years and 2 months. The objective seriousness of the offending was deemed as being in the middle of the range, given the nature of the violence, the nature and extent of the injuries, the fact that the wounds were inflicted by the use of a knife, and the fact that the wounding was completely unprovoked by the victim ([23]-[24]). Aggravating features of the offending included: the use of a weapon, the offending occurred in the victim’s home, and the offender was on conditional liberty at the time of the offending. Although the offender had previous convictions for violent offences and the conduct was an act of gratuitous violence, the Court did not take these matters into account as aggravating features ([25]-[29]). The offender had a long-standing history of drug use ([50]), as well as an extensive criminal history ([30]). He identifies as Aboriginal, and reportedly witnessed domestic violence as a child and had been assaulted ([44]-[46]). There was no evidence of any mental disorder, although the offender reported symptoms of anxiety ([51]). Given his lengthy drug and criminal history, the Court was unable to find that he was unlikely to re-offend ([53]). The offender’s expression of remorse was given limited weight ([54]). Further, the Court was satisfied that special circumstances existed as it was clear that the offender would need extensive supervision on parole to ensure that he did not relapse into drug use ([55]-[56]).