

R v Yee (a pseudonym) [2019] NSWDC 326 (19 June 2019) – New South Wales District Court

‘Domestic violence related offences’ – ‘People from culturally and linguistically diverse backgrounds’ – ‘People with poor literacy skills’ – ‘Physical violence and harm’ – ‘Special circumstances’

Charges: 1 x causing grievous bodily harm to a person with intent; 1 x intentionally choking a person with recklessness

Case type: Sentencing

Facts: The offender and victim, with whom he started communicating on a social media app, married in China. After relocating to Australia, the relationship deteriorated. The victim formed a romantic attachment to a customer while she was working as a sex worker. When she was asleep, the offender struck the victim 5 times to her head with a hammer and choked her. He suddenly stopped this attack and immediately assisted the victim. He also called his employer, told him that he had seriously injured his wife and asked him to call an ambulance as his English was poor. The victim was physically and psychologically injured. As a result of the incident, she could not work and was in ‘a state of confusion, helplessness, anxiety and panic’ ([35]).

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

Held: The grievous bodily harm was a mid-range offence, and the choking with recklessness was slightly below a mid-range offence. Each offence was aggravated by the fact that they occurred in the victim’s home. The offender had no issues with alcohol or drugs, expressed genuine remorse, and the offending was ‘completely out of...character’ and was a result of ‘a perfect storm of a mixture of conflicting emotions’ ([37]-[44]). A psychologist highlighted the need for the offender to continue psychological treatment for a persistent depressive disorder, which was in an acute state leading up to the offence ([45]). The offender’s prospects of rehabilitation were found to be ‘very good’ ([46]). The sentence imposed on the offender sought to discourage others from committing similar offences, and encourage his rehabilitation ([47]). He pleaded guilty at the first available opportunity ([48]), and given his problems with English and his social isolation, the Court made a finding of ‘special circumstances’ ([52]). For the offence of causing grievous bodily harm, the offender was sentenced to 7 years’ and 6 months’ imprisonment, with a non-parole period of 4 years. For the offence of intentionally choking a person with recklessness, the offender was sentenced to a fixed term of 3 years’ imprisonment. Both sentences were ordered to be served totally concurrently.