

***R v Raquel Hutchinson* [2019] NSWSC 25 (31 January 2019) – New South Wales Supreme Court**

‘Children’ – ‘Factors affecting risk’ – ‘People with children’ – ‘Sentencing’

Charges: Manslaughter x 1.

Case type: Sentencing.

Facts: The offender, with the help of her new fiancé, murdered her ex-husband after luring him to his townhouse, where she was lying in wait for him. When he returned home, he was struck and punched many times, resulting in a broken nose. There was also evidence that an electrical prod or Taser was used during the assault. He later died of asphyxia. The major perpetrator of the violence was found to be the offender due to the anger and hatred she had for the victim as he had custody of their two children. One of those children, their son, was present in the house at the time of the offence and witnessed many of the events leading to his father’s death ([4]-[11]).

Issues: The issue was the appropriate sentence to be imposed.

Decision and reasoning: The offender was sentenced to imprisonment for 9 years with a non-parole period of 5 years and 6 months. In Hamill J’s opinion, this was a serious example of manslaughter because of the planning and premeditation involved in the assault. Even though there was no intention to inflict grievous bodily harm, the fact that the intention was formed whilst the offender was in a rage adds to the gravity of the manslaughter. There were various aggravating features, the most serious being the fact that the offence was committed in the presence of a child ([26]). She exposed her son to the extreme brutality of the assault and killing of his father, which resulted in emotional and psychological damage. Another powerful aggravating feature was the fact that the offence was committed inside the victim’s home – a place where people are entitled to feel protected and safe ([27]). The psychiatric incapacity of the offender also played an important role in reducing her liability from murder to manslaughter, and was relevant to the subjective component of self-defence and to her defence of substantial impairment. The offender’s personal circumstances were considered. She was a victim of child sexual abuse, had a long-standing substance abuse disorder and a history of psychiatric problems ([36]). Although it was found that she tried to be a good mother, Hamill J was not satisfied that she was a person of good character due to her bad associations, erratic behaviour and chronic drug dependence ([38]). However, given her lack of significant prior offences and the efforts she made in custody, his Honour was satisfied that she had good prospects of rehabilitation and was unlikely to reoffend. She also made an early plea of guilty to manslaughter.