

***R v June Oh Seo* [2019] NSWSC 639 (31 May 2019) – New South Wales Supreme Court**

‘Factors affecting risk’ – ‘Following, harassing and monitoring’ – ‘Jealousy’ – ‘People from culturally and linguistically diverse backgrounds’ – ‘Physical violence and harm’ – ‘Poor literacy skills’ – ‘Separation’ – ‘Suicide threats’

Charges: Murder x 1.

Case type: Conviction and sentence.

Facts: The offender and victim were in a ‘romantic’ relationship and lived together at the victim’s apartment. The victim found the offender to be possessive and controlling. The victim tried to end the relationship, but the offender threatened to commit suicide if she did. The offender eventually moved out of the victim’s apartment, but continued to contact her. On 7 October 2017, the offender went to the victim’s apartment. He punched her in the face, and then threw her body over the balcony railing. He did not call for help. The precise cause of death is not entirely clear. The offender had two prior convictions for common assault and contravention of an apprehended domestic violence order for which he was placed on bonds ([43]-[44]). The bond imposed on the offender for the assault was current at the time of the offending, and thus was breached ([45]).

Issue: The Court determined the appropriate sentence for the offence in the circumstances.

Held: Wilson J convicted the offender of murder. Taking into account a further offence of assaulting and occasioning actual bodily harm to the victim, and his guilty plea, the offender was sentenced to imprisonment for 22 years and 6 months, with a non-parole period of 16 years and 10 months. Wilson J took into account the objective gravity of the crimes, the personal circumstances of the offender, and the relevant principles of sentencing.

The murder was found to be serious ([51]) and brutal ([57]). The victim was physically smaller than the offender, and was unable to sufficiently defend herself. An aggravating circumstance was that she was attacked in her own home – a place of peace and safety ([53]). The offender’s moral culpability was found to be high, as his conduct demonstrated a violent disregard for the victim’s right to autonomy, that is, to choose to end their relationship if she wishes ([59]). He acted from a profound sense of entitlement ([79]). Her Honour noted the ‘distressing frequency’ of the offender’s crime, and the significant role of general and specific deterrence in determining his sentence [79]-[84].

The offender's background and the breach of his bond suggested that he had relatively poor prospects of rehabilitation ([85]-[86]). Further, the offender was a Korean national with limited English skills and no family locally. Although Wilson J took this into account when fixing the sentence, she was not persuaded that the offender's circumstances were special or that the statutory ratio of the sentence should be varied ([87]-[88]).