

***Bush v Lyons* [2018] NTSC 20 (28 April 2018) – Northern Territory Supreme Court**

‘Breach of domestic violence order’ – ‘Imprisonment’ – ‘Manifestly excessive’ – ‘People affected by substance misuse’ – ‘Perpetrator interventions’ – ‘Sentencing’

Charges: Contravention of domestic violence order x 1; Contravention of alcohol prevention order x 1.

Appeal type: Appeal against sentence.

Facts: The appellant was subject to an alcohol prevention order and a domestic violence order which named his wife and daughter as protected persons. The appellant attended the house at which his wife and daughter were residing, under the influence of alcohol, and caused a disturbance ([2]). The Local Court restored a previously suspended sentence and imposed cumulative terms of imprisonment of 4 months for the breach of domestic violence order and 5 days for the breach of alcohol protection order ([3]). The appellant had a history of breaching the same domestic violence and alcohol prevention orders ([5]).

Issues: The appellant appealed on the grounds that the sentencing judge erred by:

- > misusing the appellant’s previous convictions in the sentencing process;
- > failing to include a rehabilitative component in the sentence;
- > failing to partially suspend the sentence; and
- > imposing a manifestly excessive sentence.

Decision and Reasoning: The first, second and third grounds were dismissed (see [11], [19] and [25] respectively). The fourth ground, manifest excess, was upheld. Grant CJ outlined the following mitigating factors:

- > the low objective seriousness of the offending;
- > the maximum penalty of 2 years imprisonment;
- > the fact that the appellant has no record of violent offending against the protected persons; and
- > his early plea of guilty ([27], [35]).

His Honour characterised the appellant’s repeated breaches as spontaneous and triggered by alcohol abuse, rather than premeditated ([32]). Quoting from *Manakgu v Russell* [2013] NTSC 48, his Honour agreed that penalties of more than 3 months’ imprisonment are properly reserved for conduct which constitutes physical assault or serious intimidation and threats ([31], [34]). His Honour reduced the sentence for breach of domestic violence order from 4 months to 2 months’ imprisonment ([37]).