

***R v Stevenson* [2015] NTSC – Sentencing Remarks 21353266 (Kelly J) (14 September 2015) – Northern Territory Supreme Court**

‘Aboriginal and Torres Strait Islander people’ – ‘Alcohol’ – ‘Community protection’ – ‘Deterrence’ – ‘Domestic violence order’ – ‘History of abuse’ – ‘Manslaughter’ – ‘Murder’ – ‘People living in regional, rural and remote communities’ – ‘Physical violence and harm’ – ‘Sentencing’

Charge: Murder (sentenced for manslaughter)

Proceeding: Sentencing

Facts: The defendant was charged with the murder of his wife (the victim) after hitting her with a crate twice, kicking her in the back, and subsequently bashing her for three hours then leaving her on the sidewalk. The next morning the defendant went to find the victim to discover she was dead. This occurred after the defendant and the victim had a fight over his drinking habits. He was intoxicated at the time the assaults occurred. A domestic violence order was previously made against the defendant in order to prevent him from being with, assaulting or threatening the victim. The Crown accepted the defendant’s guilty plea to manslaughter on the basis that intention to kill or cause serious harm could not be proved beyond reasonable doubt due to the defendant’s intoxication at the time of the violent assaults.

Issue: What sentence should the defendant receive?

Decision and Reasoning: The defendant was sentenced to 14 years imprisonment with a non-parole period of 8 years.

The defendant had a history of domestic violence assaults against his wife. He had previously been convicted of three aggravated assault offences and one breach of a domestic violence order offence. Kelly J noted that each assault followed a similar pattern, with an argument resulting in the defendant ‘savagely’ bashing his wife. These attacks always involved alcohol and usually involved a weapon. These convictions meant the defendant was not a person of good character and was not entitled to a lighter sentence for being a first offender.

The defendant is a Walpiri man who speaks Walpiri and some Gurindji. He left school in year 9 and speaks English but cannot read or write. The defendant has not worked since his first wife committed suicide in 2002. He began drinking as a teenager and was drinking heavily at the time of the offence.

In providing her reasoning for sentencing, Kelly J highlighted the prominence of alcohol related violence in the Northern Territory: 'Drunken violence is far too common in our community. It is particularly common, unfortunately, in Aboriginal communities and vulnerable Aboriginal women, vulnerable people of all kinds, deserve the fullest protection that the law can give them.' The need to punish and for specific deterrence to prevent the defendant from reoffending, as well as the need to protect the community and other women from being hurt by the defendant, were emphasised. There were also a number of aggravating factors that made the offending more serious. The defendant used several weapons when attacking his wife, rather than just losing his temper and lashing out. He also went looking for his wife, having pre-planned the attack, and did not stop bashing her even when she begged him to.

In the factually similar case of *R v Wheeler* [2005] NTSC – Sentencing Remarks 20505473 (Southwood J), the defendant (Mr Wheeler) received a sentence of 10 years and 6 months imprisonment. However, Kelly J found the defendant's conduct in the present case was more serious. Unlike Mr Wheeler, he was not provoked by his wife, showed no remorse after he finished bashing her, and did nothing to help her. He also only pleaded guilty after a preliminary hearing had already occurred with 36 witnesses, whereas Mr Wheeler pleaded guilty immediately. These circumstances taken together resulted in Kelly J finding a proper sentence of 16 years imprisonment. A reduction of about 12 percent was given as a result of the guilty plea.