

***R v Seijbel-Chocmingkwan* [2014] QCA 119 (27 May 2014) – Queensland Court of Appeal**

‘Attempted murder’ – ‘Attempted strangulation’ – ‘Dangerous operation of motor vehicle’ – ‘Denunciation’ – ‘General deterrence’ – ‘Impact of offence on victim’ – ‘Mitigating factors’ – ‘People with mental illness’ – ‘Sentencing’ – ‘Serious violent offender’

Charge/s: Attempted murder, dangerous operation of a motor vehicle.

Appeal Type: Appeal against sentence.

Facts: While on parole for assault offences committed against her daughter, the applicant drove into her former husband’s car twice. She then stabbed her husband’s new partner in the shoulder and attempted to strangle her. There was no domestic violence order in place. She pleaded guilty to attempted murder and dangerous operation of a motor vehicle, for which she was sentenced to ten years’ and 12 months’ imprisonment respectively.

Issue/s: Whether the sentence was manifestly excessive.

Decision and Reasoning: The appeal was dismissed. Morrison JA (with whom Gotterson JA and Martin J agreed) at [41] – [79] provided a useful summary of past Court of Appeal authority regarding sentencing of attempted murder offences which have an element of domestic violence. The Court considered factors such as premeditation, cooperation with authorities, remorse, the gravity of the attack and prior convictions. (See full list at [79]). The applicant was also suffering from a mental disorder, namely an ‘adjustment disorder with anxious and depressed mood’. While this was a mitigating factor, the Court held that the original sentence did adequately recognise this and other mitigating features such as her efforts at rehabilitation by enrolling in study and other courses, which were correctly balanced with the need for denunciation and general deterrence.