

***R v Piper* [2015] QCA 129 (17 July 2015) – Queensland Court of Appeal**

‘Aggravating factor’ – ‘Breach of domestic violence order’ – ‘Grievous bodily harm with intent’ – ‘Physical violence and harm’ – ‘Sentencing’

Charge/s: Grievous bodily harm with intent, breach of domestic violence order.

Appeal Type: Application for leave to appeal against sentence.

Facts: The applicant’s wife attended a hotel with a male friend. He falsely believed his wife to be in a romantic relationship with the friend. In an unprovoked attack, he stabbed the friend forcefully multiple times. The victim sustained six stab wounds, including one to his neck. The victim suffers lasting psychological difficulties as a result of the attack. There was a domestic violence order in place which prevented the applicant from coming within five metres of his wife. The attack breached this order, which became an aggravating feature in sentencing. He had no criminal history. He was sentenced to seven years’ imprisonment, becoming eligible for parole after three years.

Issue/s: One issue concerned whether the sentence was manifestly excessive.

Decision and Reasoning: Leave to appeal was granted. The offending was very serious. It was ‘a sustained, severe and premeditated attack, whilst armed with a knife, on a victim who had done nothing by way of provocation’ (See at [36]). It was committed in the context of a domestic violence order being in place. As such, the head sentence, whilst at the upper end of the scale, was within range, taking into account his lack of criminal history and plea of guilty. However, the Court concluded that the parole eligibility date should be brought forward. The applicant’s guilty plea, while late, ensured that witnesses did not have to give evidence, which was particularly important for the victim. The parole eligibility date was close to the ‘half-way mark’ in the sentence. This did not reflect the significance of his guilty plea, remorse and cooperation and lack of criminal history. As such, the parole eligibility date was changed and set at the one-third mark in the sentence.