

***R v Lane* [1998] QCA 167 (8 May 1998) – Queensland Court of Appeal**

‘Assault occasioning bodily harm’ – ‘Deterrence’ – ‘Emotional and psychological abuse’ – ‘Good behaviour bond’ – ‘Physical violence and harm’ – ‘Recording a conviction’ – ‘Self-defence’ – ‘Where the offender is also a victim’

Charge/s: Assault occasioning bodily harm.

Appeal Type: Appeal against the recording of a conviction.

Facts: The applicant was convicted of assault occasioning bodily harm. She was released and placed on a good behaviour bond for two years. For a number of years, the applicant had been the subject of severe physical and emotional abuse by her de facto partner. It is unclear whether at the time of the offence, there was a current or lapsed protection order in place between the applicant and her de facto partner. The incident involved the applicant hitting her de facto partner on the head with a heavy mortar bowl when he was sleeping. She later shot him, after a struggle for the gun. She was acquitted of the shooting charges on the basis that the jury found there was a reasonable doubt as to whether self-defence was available due to a reasonable fear of serious attack. However, she was convicted for the striking incident, with self-defence being excluded beyond reasonable doubt. The sentencing judge commented on the need for a ‘deterrent aspect in the element of sentencing in a case such as this’ (and noted) ‘Little point...would be served at this stage by not recording a conviction’ (See at page 6).

Issue/s: Whether the conviction should have been recorded.

Decision and Reasoning: The application was refused. Derrington J noted at [4] that the ‘(trial judge) made full allowance for the applicant's suffering at the hands of the complainant and for all other features favourable to her. With this approach I agree unreservedly.’