

***R v Stephens* [2017] QCA 173 (15 August 2017) – Queensland Court of Appeal**

‘Attempted murder’ – ‘Children present’ – ‘Deterrence’ – ‘Domestic violence order’ – ‘Firearms’ – ‘Moral culpability’ – ‘People with mental illness’ – ‘Post-separation violence’ – ‘Stalking’ – ‘Strangulation’

Charges: Attempted murder x 1.

Appeal type: Application for leave to appeal against sentence.

Facts: The applicant and complainant were separated ([6]). After they separated, the complainant obtained a domestic violence order against the applicant because he had sent her text messages threatening to kill her. On the date of the offence, the applicant followed the complainant and her children to a shopping centre, armed with a rifle and 13 rounds of ammunition ([7]). He shot her in the temple at close range, then attempted to strangle her. The four children in the car saw every detail of what had occurred ([8]-[9]). He was sentenced to 15 years’ imprisonment.

Issues: Whether the sentence was manifestly excessive.

Decision and Reasoning: The appeal was dismissed.

Justice Douglas, Holmes CJ and Gotterson J agreeing, found that the sentencing judge properly weighed the relevant factors. The applicant’s mental health disorders did not bear on his moral culpability ([43]). This was a ‘horrific example of the crime of attempted murder’. The victim continues to suffer severely. There was a strong need for protection and general and specific deterrence. The appropriate range would have been 13 to 17 years ([44]).