

***R v Foodey* [2003] QCA 310 (25 July 2003) – Queensland Court of Appeal**

‘Aggravated stalking’ – ‘Damaging property’ – ‘Deterrence’ – ‘Following, harassing, monitoring’ – ‘Physical violence and harm’ – ‘Sentencing’ – ‘Wilful damage’

Charge/s: Stalking with circumstance of aggravation (violence), wilful damage.

Appeal Type: Application for leave to appeal against sentence.

Facts: The applicant separated from his wife after an eight year marriage and fourteen year relationship. Temporary protection orders were in place against the applicant in favour of his ex-wife. In breach of those orders, he stalked her on a number of separate occasions by assaulting her, driving his car at her, making threats against her and their children and following her car. His criminal history involved drug offences committed a considerable time ago. He pleaded guilty. The sentencing judge noted that the applicant showed no remorse and his conduct was of such seriousness that a deterrent sentence was more important than is normally the case. He was sentenced to 12 and a half months imprisonment, suspended for five years.

Issue/s: Whether the sentence was manifestly excessive.

Decision and Reasoning: Leave was refused. Jerrard JA (with whom Davies JA and Helman J agreed) stated at [11] that, *‘The applicant’s behaviour towards Jennifer Foodey in the two and a half months between their separation and his incarceration was persistently cruel and aggressive. At different times he insulted, degraded, and terrified her. His conduct throughout was in breach of court orders intended to give her protection. Considered in isolation, the sentence imposed by the learned judge does not appear manifestly excessive, and indeed far from it. The same result occurs if regard is had to other sentences for unlawful stalking imposed or approved by this court.’* The sentence was upheld.