

## ***R v Matamua; ex parte Attorney-General (Qld)* [2000] QCA 400 (28 September 2000) – Queensland Court of Appeal**

‘Assault’ – ‘Deterrence’ – ‘Going armed in public in such a manner as to cause fear’ – ‘Physical violence and harm’ – ‘Sentencing’ – ‘Unlawful assault causing bodily harm while armed’

Charge/s: Unlawful assault, unlawful assault causing bodily harm while armed, going armed in public in such a manner as to cause fear.

Appeal Type: Appeal against sentence.

Facts: The respondent became involved in an argument with the complainant, with whom he was in a de facto relationship. The respondent smashed a stubby of beer on his forehead which broke. He then pushed the complainant onto the bonnet of a car and held the broken bottle on her throat and threatened to slice her with it. Another argument ensued, at which point the respondent swung an axe at the complainant. He hit her on the back of the head with the handle while yelling abuse at her. She was knocked to the ground. Then, he swung the axe to the ground so that the axe head became stuck in the ground next to the complainant’s head. After a struggle, he winded the complainant and held the axe to her throat, while threatening to kill her. He was severely intoxicated. The relationship ended after the offences. The complainant experienced severe pain, but suffered no permanent physical injury. However, she suffered lasting psychological injuries. The respondent’s criminal history consisted of drug and traffic offences, as well as one offence of behaving in a threatening manner. He was sentenced to a total effective sentence of 18 months’ imprisonment, wholly suspended with an operational period of two and a half years. A \$1000 fine and \$1000 compensation was also ordered.

Issue/s: Whether the sentence was manifestly inadequate. In particular, whether a custodial sentence was required.

Decision and Reasoning: The appeal was upheld. Pincus JA (with whom Thomas JA and de Jersey CJ agreed) held that the degree of violence was such as to warrant a term of actual imprisonment. A deterrent sentence was needed. His conduct was prolonged. The axe could quite easily have gone through someone’s head. It involved other people as well as his partner. The sentence was increased on the principal charge of assault occasioning bodily harm to 18 months’ imprisonment with a recommendation for parole after six months. It was recommended that the respondent receive counselling for his alcohol problems.