

***R v Ellis* [2018] QCA 70 (17 April 2018) – Queensland Court of Appeal**

‘Appeal against sentence’ – ‘Emotional and psychological abuse’ – ‘Physical violence and harm’ – ‘Post-separation violence’ – ‘Risk factors - controlling, jealous, obsessive behaviours’ – ‘Self-represented litigant’ – ‘Women’

Charges: Torture x 1; Assault occasioning bodily harm x 1; Malicious act with intent x 1.

Appeal type: Appeal against sentence.

Facts: The complainant and the applicant had been in a relationship for two months ([4]). The complainant ended the relationship. The next day, the applicant attended at her home and she let him inside. He accused her of being unfaithful to him ([4]). Over the next four hours, the applicant did the following acts to the complainant: slapped her; ripped an earring from her ear; punched her; struck her with a garden trowel; locked her in a cupboard; heated the trowel and a butter knife over the flame of a gas stove and struck her on the legs and near her vulva, causing burns; and forced her to shower, exacerbating the burns ([5]).

The applicant was sentenced to six and a half years’ imprisonment for the torture charge, 18 months’ imprisonment for the assault occasioning bodily harm charge, and 6 years’ imprisonment for the malicious act with intent charge. A serious violent offence declaration was made in respect of the torture charge.

Issues: Whether the sentence of six and a half years’ imprisonment for the torture charge was manifestly excessive.

Decision and Reasoning: The application for leave to appeal against the sentence was refused. It was within the trial judge’s discretion to sentence the applicant and also make a serious violent offence declaration ([19]). The trial judge appropriately balanced the applicant’s personal circumstances, including the fact that he was subject to domestic violence as a child, with the fact that he had a criminal history including domestic violence ([12]).