

***R v LAN* [2019] QCA 76 (7 May 2019) – Queensland Court of Appeal**

‘Appeal against sentence’ – ‘Attempted murder’ – ‘Excessive or inadequate sentence’ – ‘Grounds for interference’ – ‘Strangulation’

Charges: 1x attempted murder.

Appeal type: application for leave to appeal against sentence.

Facts: The applicant and complainant had been in a relationship for about a year. At the time of the offending, the applicant and complainant were separated but still friends. The offence took place at the complainant’s unit. The complainant asked the applicant to leave after he made sexual advances but the applicant refused, grabbed her phone and placed it in his pocket. The complainant attempted to retrieve her phone but the applicant immediately restrained her before punching her, strangling her and threatening to kill her (see [6]-[9]). The violent acts caused the complainant insignificant physical injuries but substantial psychological injuries ([15]). After being convicted of attempted murder, the applicant was sentenced to nine years imprisonment three years later. The applicant appealed against this sentence.

Issues: whether the sentence was manifestly excessive?

Decision and reasoning: application for leave to appeal against sentence was refused.

In attempting to establish that the sentence imposed was “unreasonable or plainly unjust” and thereby manifestly excessive, the applicant maintained that the complainant suffered from a mental illness and that he was the victim of sustained abuse and threats (see [23]-[24]). The applicant also attempted to downplay the depravity of his conduct by questioning the credibility of the medical reports and ambulance reports (see [25]). These assertions were soon pointed out by Philippides JA as irrelevant to the determination of the application at hand because they didn’t form part of the agreed facts (see [26]).

His Honour, having dismissed the grounds of the applicant’s appeal, proceeded to concur with the respondent’s submission that the sentence was within the sentencing discretion and supported by numerous authorities (see [27]-[32]).