

***R v Harold* [2011] QCA 99 (17 May 2011) – Queensland Court of Appeal**

‘Character’ – ‘Criminal history’ – ‘Cumulation of sentence’ – ‘Manslaughter’ – ‘Physical violence and harm’ – ‘Sentencing’

Charge/s: Manslaughter, assault occasioning bodily harm, various summary offences.

Appeal Type: Application for leave to appeal against sentence.

Facts: The circumstances of the offending included the applicant stabbing his de facto partner multiple times and striking her with a cricket bat (See further at [3]-[9]). The applicant had a substantial and relevant criminal history of violence against the deceased committed over a 10 year period. He was convicted a number of times for severe assaults (both common assaults and assaults occasioning bodily harm) on the deceased, including punching her and hitting her over the head with an iron bar. He had previously been the subject of multiple domestic violence orders in her favour, which he had often breached. The applicant was convicted for the manslaughter of the deceased and was sentenced to 14 years’ imprisonment, including 12 years for manslaughter. The extra two years took into account 9 summary offences and two counts of assault occasioning bodily harm to which he had pleaded guilty.

Issue/s: Whether the sentence was manifestly excessive.

Decision and Reasoning: The appeal was dismissed. Martin J (with whom Chesterman JA and White JA agreed) held that the sentencing judge correctly made the 2 year sentence for the two charges of assault occasioning bodily harm cumulative because they were separate offences committed at different times, even though they were committed in a 10 year course of conduct. The total effective sentence was appropriate and within range. The sentencing judge observed this was a repetitive and prolonged attack with a knife making it a serious case of manslaughter.