

***R v Coman* [2020] QSC 60 (3 April 2020) – Queensland Supreme Court**

‘Dangerous operation of a vehicle’ – ‘Female perpetrator’ – ‘History of abuse’ – ‘History of emotional abuse’ – ‘Judge only trial’ – ‘Manslaughter’ – ‘People affected by substance misuse’ – ‘People living in regional, rural and remote communities’ – ‘Perceived position of danger’ – ‘Victims as (alleged) perpetrators’

Offences: Manslaughter x 1; Dangerous operation of a vehicle causing death while adversely affected by an intoxicating substance x 1.

Case type: Judge only trial

Facts: The female accused pleaded not guilty to manslaughter and the dangerous operation of a vehicle causing death whilst adversely affected by an intoxicating substance. The victim, her male fiancé, died of traumatic asphyxiation after the accused drove her motor vehicle over him as he lay on the ground. It was uncontroversial that the incident was preceded by an alcohol-fueled argument between the two parties. The accused felt threatened and decided to remove herself from what she believed to be a position of danger by attempting to drive away to a place of safety ([11]). The Crown alleged that the accused knew that the deceased was on the ground and deliberately drove her motor vehicle over the deceased, albeit without any intention to cause death or grievous bodily harm.

At the close of the Crown case, the accused’s counsel made a no case submission with respect to the count of manslaughter. In particular, it was submitted that there was no evidence from which an inference of knowledge or intention could be made. Given the fact that there had been an unexplained deviation of the accused’s car from the driveway to the position where the victim’s body was found, the no case submission was unsuccessful. The accused then elected to give evidence, and claimed that the victim ran into her car as she was driving away from the house. Two defences were raised, namely, unforeseen consequence and one of extraordinary emergency or compulsion.

Issue: Whether the accused was guilty of the offences charged.

Held: Burns J considered the significant body of evidence regarding the victim’s relationship with his former wife, his subsequent partner and the accused. The accused and victim lived in a semi-rural town and had been in a relationship for approximately 2 years. Like the victim’s prior relationships, his relationship with the accused was marred by frequent and excessive alcohol consumption. As a result of his "chronic drinking problem", there were regular outbursts of anger, emotional abuse (including belittling accusations, vile language and intimidation), and, on occasion, actual violence ([18]).

The accused was acquitted on the count of manslaughter. His Honour accepted the accused's evidence as it was entirely consistent with the physical evidence found at the scene, as well as the nature and extent of the victim's injuries ([36]), and found that she did not deliberately drive over the victim's body ([52]). His Honour was also not satisfied beyond reasonable doubt that the accused substantially or significantly caused the victim's death. The real and effective cause of his death was his decision to place himself in front of the accused's moving car ([54]). The accused was also acquitted on the alternative count of dangerous operation of a vehicle ([65]).