

***DPP v Meyers* [2014] VSCA 314 (4 December 2014) – Victorian Court of Appeal**

‘Aggravated burglary’ – ‘Damaging property’ – ‘Deterrence’ – ‘False imprisonment’ – ‘Intentionally causing injury’ – ‘Physical violence and harm’ – ‘Risk factor - strangulation’ – ‘Sentencing’ – ‘Seriousness’

Charge/s: Damaging property, aggravated burglary, false imprisonment, intentionally causing injury, possessing an unregistered firearm.

Appeal Type: Crown appeal against sentence.

Facts: The female victim was the male respondent’s ex-partner. On the day of the offence, the respondent drove to the victim’s premises with a double-barrelled shotgun, a power nail gun, a crow bar, cable ties and rolls of gorilla tape, various knives and cutting tools, and a plastic drop sheet. He smashed his way into the house and attempted to restrain the victim with cable ties. The victim struggled and the applicant struck her with the shotgun and started strangling her. He eventually managed to restrain the victim. After three and a half hours, police attended the premises and the applicant let the victim go. The respondent was sentenced to three years and six months imprisonment with a non-parole period of 18 months.

Issue/s: The sentence was manifestly inadequate.

Decision and Reasoning: The appeal was allowed and the respondent re-sentenced to five years and six months imprisonment with a non-parole period of three years. For the fourth time in six months, the Court here was concerned with sentencing for an offence of aggravated burglary committed by a male offender against his former domestic partner, ‘intimate relationship aggravated burglary’ (See [3]-[4]). At [5]-[6] the Court said:

‘On this appeal, as in each of the previous appeals, the offender submitted that what was said by the Court in [Hogarth](#) — about the need to increase sentences [for confrontational aggravated burglary] — had little or no application to aggravated burglary where the victim was a former domestic partner. That submission failed on each previous occasion, and we likewise reject it.

As these reasons demonstrate, the task of applying Hogarth does not require the classification of offences into categories. Put simply, Hogarth established that current sentencing practices (‘CSP’) for serious forms of aggravated burglary needed to change, as they did not reflect the objective seriousness of such offending. Aggravated burglaries which involve confrontation and violence, or threats of violence, should be viewed very seriously, whether the target of the attack is a former domestic partner or a person against whom some other grievance is held’.

In reaching this decision, the Court made some observations about domestic violence offending. At [45]-[46] they stated:

'We would wish to endorse the remarks in [Filiz](#) at [21]-[23] about the particular seriousness of offending involving former domestic partners. Violence of this kind is alarmingly widespread, and extremely harmful. The statistics about the incidence of women being killed or seriously injured by vengeful former partners are truly shocking. Although the cases under consideration do not fall into that worst category, they are symptomatic of what can fairly be described as an epidemic of domestic violence.

General deterrence is, accordingly, a sentencing principle of great importance in cases such as these. Those who might, in a mood of anger or frustration or bitterness, contemplate this kind of violent entry into the home of a former spouse or partner must realise that, if they do so, they will almost certainly spend a long time in prison'.