

***R v Eustace* [2019] VSC 189 (26 March 2019) – Victorian Supreme Court**

‘Factors affecting risk’ – ‘People from culturally and linguistically diverse backgrounds’ – ‘Physical violence and harm’ – ‘Sentencing’

Charges: Murder x 1.

Case type: Sentence.

Facts: The offender and victim met while visiting Australia from India, and eventually married. Three months later, the offender killed the victim in a knife attack in their shared home ([3]). On the night of the murder, the offender and victim argued, which ultimately resulted in the offender obtaining a knife and stabbing the victim ([9]-[14]). She suffered 12 wounds to her chest, abdomen, arm and leg. The offender’s actions were described as ‘sustained, purposeful and ruthlessly determined’. Even after the offender was restrained in a head lock and dragged from the bedroom by a man with whom they lived, he returned to the room to resume the attack ([15]).

Issues: The Court determined the appropriate sentence for the offence of murder in the circumstances.

Decision and reasoning: Taylor J took into account the offender’s personal circumstances at [26]-[31]. He was 43 at the time of the offending and his work history showed him to be ‘a man of industry’ ([29]). However, his father was an aggressive alcoholic ([28]). Prior to meeting the victim, he had been in two significant relationships, one of which was an arranged marriage ([31]).

The offending was found to be 'self-evidently extremely serious', as the killing of a domestic partner violates a fundamental principle underpinning society, namely, that all persons have the right to safety, respect and trust in intimate relationships. Whether or not the marriage was one of convenience, his Honour noted that the offender had voluntarily entered into a relationship in which he owed the victim kindness and safety. Rather, the offender betrayed her trust and the expectation that, even where issues in family relationships arise, violence is not tolerated. Even if the offender was fearful, angry, intoxicated or frustrated, he should have just walked away ([33]). Women should not fear or suffer physical harm because their partner loses their temper. The offender's actions were found to be at the extreme end of the scale of 'abominable acts' ([34]). Aggravating circumstances included the fact that the victim was his wife, that she was murdered in their home, that a knife was used, and that despite the number of wounds already inflicted, the offender continued his attack, even after being physically restrained by another person ([35]-[36]). The public has an interest in matters involving family violence. Principles of general deterrence, denunciation and just punishment are relevant to sentencing ([35]). The objective gravity of the offending and the moral culpability of the offender was also found to be very high ([38]).

The offender pleaded guilty after the committal hearing, demonstrating a willingness to facilitate the course of justice ([39]). He also surrendered himself to the police station and admitted the killing. His remorse was further expressed in a letter of apology to the victim's family ([40]).

Taylor J sentenced the offender to 25 years' imprisonment with a non-parole period of 20 years ([46]). After the expiry of his sentence, it was noted that the offender would be deported to India. Knowledge of this deportation was said to make imprisonment more burdensome ([41]). Taylor J also noted that the offender would be isolated in custody ([42]). The offender's prospects for rehabilitation were found to be good, as a result of some positive references indicating his good character and hardworking nature ([43]).