

## ***R v Edwards* [2019] VSC 234 (12 April 2019) – Victorian Supreme Court**

‘Aboriginal and Torres Strait Islander people’ – ‘Dysfunctional upbringing’ – ‘Genuine remorse’ – ‘Guilty plea’ – ‘People affected by substance misuse’ – ‘Sentencing’ – ‘Stabbing of domestic partner’

Charges: Manslaughter by unlawful and dangerous act x 1.

Case type: Sentence.

Facts: The female offender pleaded guilty to killing the male victim, with whom she had been in a relationship for just over 12 months. By her plea of guilty, she admitted to intentionally stabbing the victim and that she had no lawful excuse for doing so ([2]). The offender and victim were heavy drug users which led to repeated heated arguments about money ([6]). The victim died from a stab wound to the neck in ‘terrible and terrifying circumstances’ ([54]).

Issue: The Court determined the appropriate sentence for the offence in the circumstances.

Held: Emerton J sentenced the offender to 9 years’ imprisonment with a non-parole period of 6 years and 9 months. Her Honour noted that the offender’s personal circumstances were relevant not only to her moral culpability, but also to her sentencing ([56]). She had a long history of substance and drug abuse, and had previously been in a series of dysfunctional and destructive relationships, all of which involved drug use. Two of these relationships produced children and one involved physical violence ([63]). Her Honour described the offender’s relationships with men as those often associated with ‘women who are vulnerable and sad’ ([66]). Even though the victim and offender were engaged in heavy drug use, the victim had no prior history of violent relationships and was reportedly patient and caring towards the offender and her daughter ([67]). Nevertheless, there was evidence of the victim behaving violently towards the offender, described at [17]-[18].

Her Honour did not accept the submission that the offender’s moral culpability for the killing was reduced by reason of it being a response to violence inflicted on her by the victim. Her Honour found that the killing occurred in the context of a dysfunctional relationship characterised by heavy drug use and the resulting disorder and conflict ([70]). However, the offender’s disadvantaged background was found to have diminished her moral culpability to some extent ([78], [86]).

The offender's upbringing was marked by an absent father and physically abusive mother who was dependant on drugs and alcohol. She had been in relationships with adult men since the age of 14 that were emotionally, physically and financially abusive, and often involved substance abuse. Emerton J recognised that her abusive and dysfunctional upbringing was relevant to the determination of an appropriate sentence. Another important consideration was the fact that the offender is an Aboriginal person and a descendant of a member of the stolen generation ([84]-[85]).

Emerton J considered the offender's prospects of rehabilitation to be good, given her work history, remorse, absence of previous offending and efforts she made on remand to 'turn [her] life around' ([87]-[92]). Nevertheless, her long history of drug use gave rise to a need for specific deterrence ([95]).