

***DPP v Williams* [2014] VSC 304 (27 June 2014) – Victorian Supreme Court**

‘Aggravating factor’ – ‘Defensive homicide’ – ‘Emotional and psychological abuse’ – ‘Evidence’ – ‘Expert evidence - academic’ – ‘History of violence’ – ‘Lack of disclosure of family violence’ – ‘Mitigating factors’ – ‘Physical violence and harm’ – ‘Sentencing’

Charges: Defensive Homicide.

Hearing: Sentence.

Facts: The defendant was charged with murdering her de facto partner but was found guilty of defensive homicide. She struck the deceased to the head 16 times with an axe. She buried the deceased’s body in the backyard and lied about his whereabouts to family and friends for more than four years, claiming that he had gone interstate. The defendant gave an account of a violent fight which led to the deceased’s death which included the deceased taunting and goading the defendant. She attested to a long history of family violence by the deceased.

Issue/s: The appropriate sentence to be imposed.

Decision and Reasoning: The defendant was sentenced to 8 years’ imprisonment, with a non-parole period of 5 years. In finding the defendant guilty of defensive homicide, the jury had to be satisfied that the killing took place in the context of a serious history of family violence. Hollingworth J noted at [20] that, while there was no evidence that the defendant or her children had ever complained about family violence, this is not uncommon.

The deceased was the dominant person in the relationship. He had a long history of violence and drank heavily. His behaviour towards the defendant ‘over many years, was abusive, belittling and controlling, and involved both physical and psychological abuse’ ([26]). Her Honour noted, ‘The final act or acts of the deceased may well be relatively minor, if looked at in isolation; but what happens in such cases is that the victim of family violence finally reaches a point of explosive violence, in response to yet another episode of being attacked. In such a case, it is not uncommon for the accused to inflict violence that is completely disproportionate to the immediate harm or threatened harm from the deceased’ ([32]).

The Court heard (largely unchallenged) expert evidence from Professor Patricia Eastaerl regarding the complex dynamics of family violence, the reasons why women often do not leave violent partners and the use of weapons by female victims of family violence against male partners ([33]-[34]). Given this evidence, Her Honour noted that while ordinarily, striking 16 blows with an axe in response to a minor physical and verbal attack by an unarmed attacker would seem disproportionate, this may not be the correct conclusion in family violence cases involving a female offender ([36]). However, aggravating factors included the

defendant's deceit and a lack of remorse. Her offending had a large impact on the deceased's family.