

## ***R v Jones* [2018] VSC 415 (31 July 2018) – Victorian Supreme Court**

‘Battered woman syndrome’ – ‘Manslaughter’ – ‘Pregnant people’ – ‘Sentencing’

Charges: Manslaughter based on an unlawful and dangerous act x 1

Proceeding type: Sentence to be imposed

Facts: The female offender was in a relationship with the male victim, with a history of illicit drug use and domestic violence. In April 2015, the victim grabbed the offender around the throat and threatened to harm and kill her. In October 2015, the victim pushed the offender. She armed herself with a knife and returned to the bedroom to confront him. He grabbed her by the throat, and verbally and physically assaulted her. She was pregnant at the time with his child. In December 2016, there had been a heated verbal argument between the parties. She stabbed him in the chest with a kitchen knife. The offender pleaded guilty.

Issues: Sentence to be imposed.

Decision and Reasoning: Taylor J took into account victim impact statements ([20]-[21]), and the offender’s prior criminal history ([22]-[26]) and personal history ([27]-[41]). The offender had been sentenced to a term of imprisonment for a charge of recklessly causing injury by punching and stabbing a former partner. She had experienced trauma at an early age as she was raped by two of her brother’s friends. She was diagnosed with post-traumatic stress disorder and excoriation disorder. Her psychological condition did not warrant the application of the principles in *R v Verdins* [2007] VSCA 102. Her Honour accepted that there had been a history of domestic violence at the hands of the victim and that, on the balance of probabilities, physical violence had occurred the morning of the victim’s death. The gravity of her offending was to be assessed in the context of her history of family violence and her perception of a physical threat. At [48], her Honour stated –

*‘Family violence is insidious. It need not find expression in physical violence to be described as grave or create a mindset in its victims of fear and helplessness. That mindset arises from all forms of violence experienced by victims and is not triggered only at the time of a physical assault...’*

Her Honour accepted that her plea of guilty was an expression of genuine remorse, and that her time in custody would be more burdensome due to the separation from her children, as well as her diagnosed psychiatric illnesses. Specific deterrence was considered a significant sentencing factor, as well as general deterrence and denunciation. At [58], her Honour acknowledged that ‘This Court must pass a sentence that denounces your behaviour and deters others from resorting to the use of knives or other sharp objects during conflicts.’ The offender was sentenced to nine years’ imprisonment, with a non-parole period of seven years.