

## ***DPP v Freeburn* [2018] VSC 616 (14 December 2018) – Victorian Supreme Court**

‘Imprisonment’ – ‘People with disability and impairment’ – ‘Physical violence and harm’ – ‘Women’

Charges: Murder x 1

Facts: The offender met the deceased, a 29 year old woman with a mild intellectual disability, on an internet dating site. The deceased was particularly vulnerable as she was guarded about her relationships and sometimes did not inform her family as to her whereabouts. Her parents obtained a guardianship order at VCAT because of their concern that she was unable to protect her own interests. The deceased had told her family and friends of the offender’s violent behaviour towards her. The offender often exhibited jealousy, anger and verbal aggression when the deceased interacted with other men. The deceased’s body was found in the offender’s room three days after she was reported missing, with restraint marks on her wrists, bruising to her face and upper body, and a ‘tram track’ mark on her back. She also sustained brain injuries, indicating multiple blows to the head. Her wrists were bound and her neck and face were wrapped in tape. An autopsy revealed that she consumed the drug GHB prior to her death. It was entirely plausible that the deceased was alive, albeit unconscious, when the offender left the premises.

Issues: Sentencing

Decision and Reasoning: The offender was found guilty of murder and sentenced to 25 years’ imprisonment with a non-parole period of 20 years. The jury rejected the offender’s defence that the deceased’s death was caused solely by her consumption of GHB. At the time of the incident, the offender regularly abused drugs, and suffered from personality disorder and long-term anger management problems which may have affected his judgment and ability to make calm and rational decisions ([24]). The deceased was also in a particularly vulnerable position due to her intellectual disability. His Honour considered the offender’s personal circumstances which included his parent’s separation, his upbringing which was characterised by substance abuse and family violence, his experience in several foster placements in which he exhibited violent behaviour, and his diagnoses of ADHD, oppositional defiant disorder and conduct disorder. His involvement in the criminal justice system began when he was a minor, and his violent offending included numerous convictions of assault. Given his history of mental health problems and violent prison incidents, his Honour accepted that he should remain in conditions more restrictive than those of other prisoners.