

***DPP v Buck* [2021] VCC 759 (11 June 2021) – Victorian County Court**

‘Damaging property’ – ‘Exposing children to domestic and family violence’ – ‘Physical violence and harm’ – ‘Protection order’ – ‘Sentencing’ – ‘Strangulation’ – ‘Weapons and threats to kill’

Charges: Criminal damage; Common assault; Conduct endangering serious injury; Intentionally cause injury; Threat to kill; Trespass; Indictment offence on bail; Persistent Breach of Family Violence Intervention Order.

Proceedings: Sentencing.

Facts: The male offender and female victim had been in a relationship for approximately four months. The offender ripped her clothes off and hit the back of her head with a hair dryer multiple times. He punched her five or six times to the face, and stomped on her head and chest several times. He strangled her, threatening to kill her, and she felt unable to breathe. At one point, the offender chased the victim into the street and threatened to kill her while brandishing a knife. He also caused property damage and assaulted the victim’s housemate (who tried to intervene). The victim’s children were present at the time of the offending. The victim sustained many injuries, including exposing her bone and skull. A Family Violence Intervention Order was imposed and, despite the order, the offender telephoned the victim from custody on 12 occasions, but desisted once the victim told him to stop.

Issues: Sentence to be imposed.

Decision and reasoning: A sentence of 3 years 5 months imprisonment with a non-parole period 2 years was imposed.

Assessed in the context of an intimate relationship, this was a reasonably serious example of causing intentional injury for the following reasons:

- > It was an assault on the offender’s partner who was entitled to his care.
- > The offending occurred in the victim’s home, where she should have felt safe.
- > The offender used a household item as a weapon, hitting the victim to her head repeatedly to a point where she was feeling dizzy. The victim said she felt unable to stand up, had blood in her eyes and her head was throbbing. The physical injury to her head was a result of those repeated strikes. The offender continued to assault her, despite her state and her pleading with him to stop.
- > The assault was protracted, moving between various rooms in the house, out onto the street and back into the house.

- > The acts of violence against the offender's partner "were not only physically violent, resulting in her injuries, but they were degrading, including stripping her naked. One neighbour refers to her running naked in the street, bloodied and bruised."
- > As part of the episode, the offender choked her. The victim described feeling unable to breathe and wondering whether she would be able to do so again. There were marks around her neck from that part of this event. During that event, he made the threat to kill her which must have been terrifying given the context of that threat. He later made a threat when brandishing a knife.
- > The offender continued to attack the victim, despite the intervention of the victim's housemate.
- > The acts occurred in the presence and hearing of the victim's children, which was most disturbing. As his Honour noted: "The fact that a 12 year old had to call police because you were violently assaulting her mother is reprehensible. [The victim's] daughter was extremely courageous and showed wisdom beyond her years in doing what she could to try and get police to the scene."
- > The offender's assault on the victim's housemate demonstrated the offender's level of aggression.
- > "Despite the fact I have not received a victim impact statement, I can well anticipate that Ms Brewer suffered distress, humiliation and fear during this offending, and that she is likely to have experienced some ongoing trauma as a result. Those matters would only be exacerbated in my view, by the presence of her two daughters and her feelings of concern for them."

The principles from *Bugmy v The Queen* were applicable in this case (disadvantage and events during his formative years) and somewhat reduced the offender's moral culpability. He pleaded guilty. There was an intervention order protecting the victim and the offender had shown no desire to try and contact her now.