People living in regional, rural and remote communities - Cases

The cases identified here provide examples of the way judicial officers have dealt with some of the issues raised in the context statement.

Click on the citation to be directed to a summary of the case in the Case Database.

DPP v Darcy-Shillingsworth **[2017] NSWCCA 224 (13 September 2017) – New South Wales Court of Criminal Appeal**

Per Fagan J at [104]

'The violence to the respondent's female partner was perpetrated in a remote community at least a hundred kilometres from the nearest permanent police presence. It was a serious aspect of count 3 that this assault, constituted by punching Ms Stanton in the face, pulling her from the car and knocking her to the ground with another blow, took place in the presence of her father. He had attended to try to stop the attack. Although police could not be summoned quickly enough to provide the immediate physical protection which his daughter's situation evidently required, Mr Stanton did not escalate the violence or take the law into his own hands. He warned that he was calling the police. This ought to have caused the respondent to come to his senses and draw back from his cowardly attack. Instead… he commenced to beat Mr Stanton himself. Grievous bodily harm resulted. As the jury found, the respondent foresaw this as a possible outcome of his actions.'

Morgan v Kazandzis **[2010] WASC 377 (10 December 2010) – Supreme Court of Western Australia**

EM Heenan J at [72]: 'His violent conduct towards the victim on 27 September 2008 had been repeated less than five weeks later and she was in obvious fear of him. The fear must have been recognised as being well justified because of the actions taken by the police in evacuating her by air from Oombulgurri immediately after each episode. She was much younger than the appellant, had been in a relationship with him and was pregnant. Violent treatment of women in this fashion cannot be tolerated anywhere in the State, but it is of particular importance that in isolated communities such as Oombulgurri that the punishment of an offender who commits such offences in a short space of time should be such as to demonstrate to all members of the community that that conduct is unlawful and that effective punishment will be imposed in order to deter the general community from the use of violence. Specific deterrence of the individual offender was, in this case, also a necessary and essential ingredient of the sentence. For these reasons, I do not consider that any error has been demonstrated by the learned magistrate in deciding

upon immediate sentences of imprisonment rather than suspending one or both of them'.

***Lutley v Jacques* [2010] WASC 78 (28 April 2010) – Supreme Court of Western Australia**

Simmonds J at [80]-[81]: 'Counsel for the respondent also pressed on me that the offences occurred in the remote Pilbara region, which counsel said had the second highest rates of violence against women in the state. Also, she pointed out that there were data showing that remote areas have about five times the rate of domestic violence than capital cities'.

'I accept without deciding that I can take judicial notice of these matters, and that I should regard them as going to the prevalence of offences of domestic violence to which the Restraining Orders Act is part of the legal response. On the relevance of the prevalence of offending of a particular type, see *Yates v The State of Western Australia* [2008] WASCA 144 [55] (Steytler P), [94] (McLure JA). I also accept without deciding that sentences for the same offending committed in different parts of the state may be affected by differences in the prevalence of that offence in those parts of those magnitudes. However, I note that counsel was unable to refer me to authority for that last approach'.