

## ***Hill v The State of Western Australia* [2015] WASCA 17 (22 January 2015) – Western Australia Supreme Court (Court of Appeal)**

‘Accident’ – ‘Directions and warnings for/to jury’ – ‘Evidence’ – ‘Manslaughter’ – ‘Physical violence and harm’ – ‘Relationship evidence’

Charge/s: Manslaughter.

Appeal Type: Appeal against conviction.

Facts: The appellant and the deceased knew each other for 25 years prior to her death. At one stage, the relationship broke down (at which point the deceased obtained a restraining order against the appellant) but it later improved to the extent that the appellant began to live in a bus on land nearby the deceased’s property. Following a series of escalating arguments (involving the appellant doing things such as throwing objects at the deceased and threatening to kill her), a neighbour found the deceased’s body.

Issue/s: Whether the trial judge’s directions to the jury with respect to the defence of accident (under section 23B of the *Criminal Code (WA)*) were adequate.

Decision and Reasoning: The appeal was dismissed. Hall J (with whom McLure P and Mazza JA agreed) held that the trial judge made sufficient reference to the evidence of a medical expert. He adequately explained that the jury must have regard to that evidence in considering the severity of the injuries to determine whether the death was foreseeable for the purposes of the defence of accident. In considering that defence, the jury was also obliged to consider the whole of the evidence including that the appellant knew the deceased was vulnerable and the previous history of violence and threats of violence (see at [62]).