

***Rosewood v The State of Western Australia* [2014] WASCA 21 (29 January 2014) – Western Australia Supreme Court (Court of Appeal)**

‘Deterrence’ – ‘Exposing a child’ – ‘Intoxication’ – ‘Mitigating factors’ – ‘Murder’ – ‘Physical violence and harm’ – ‘Sentencing’

Charge/s: Murder.

Appeal Type: Appeal against sentence.

Facts: The appellant was in a domestic relationship with the deceased for 12 months prior to the offence and had a 3-month old child. On the day of the offence, the appellant and deceased were drinking alcohol and an argument occurred. The appellant then stabbed the deceased in the chest. The deceased turned away and the appellant stabbed her twice in the back. The appellant witnessed ‘chronic and acute’ (see at [7]) domestic violence in his childhood. He had several prior domestic violence convictions against the deceased and other partners. The appellant was convicted on a plea of guilty. The sentencing judge accepted that the appellant was a high risk of violence in respect of intimate partners and a moderate risk in respect of other people. He was sentenced to life imprisonment with a non-parole period of 18 years.

Issue/s: Whether the non-parole period was manifestly excessive.

Decision and Reasoning: The appeal was dismissed. McLure P (with whom Newnes JA and Mazza JA agreed) held that this was a serious example of offending of this kind. The deceased was unarmed. While the attack was impulsive and not premediated, this meant that the deceased and other people in the house had limited ability to defend her. The offence was committed in front of the deceased’s family including young children. In relation to intoxication, her Honour noted at [15] – ‘*The fact that the appellant was heavily intoxicated at the time is not mitigatory. The sentencing objectives of personal and general deterrence weigh heavily in relation to acts of domestic violence that are committed when drunk or sober.*’