

***The State of Western Australia v Churchill* [2015] WASCA 257 (23 December 2015) – Western Australia Supreme Court (Court of Appeal)**

‘Aboriginal and torres strait islander people’ – ‘Alcohol’ – ‘Community protection’ – ‘Deterrence’ – ‘Male victims’ – ‘Murder’ – ‘Physical violence and harm’

Charge/s: Murder.

Appeal type: State appeal against sentence.

Facts: The deceased was in a domestic relationship with the respondent. The day prior to the murder, the respondent approached the deceased with a broken bottle and threatened to kill him. The deceased told the respondent he wanted to leave her. The next day the respondent threw bottles at the deceased, threatened to kill him, and chased him wielding a bottle. Later, the respondent and the deceased drank alcohol together. An argument broke out in which the both the respondent and the deceased threatened to kill each other. At some time between that night and the next morning, both the respondent (who was intoxicated) and the deceased returned home. The respondent stabbed the deceased with two knives and assaulted him with an electric frypan, causing his death. In total, there were 14 stab injuries and 26 incised injuries. The respondent cleaned up the premises, changed out of her clothes, and went to a neighbour’s place saying she had found the deceased injured. *‘[The deceased] had been the victim of sustained physical abuse at the hands of the respondent, who the sentencing judge described as bigger and stronger than the ‘weak and vulnerable’ [deceased]. This case confirms the experience of those who work in the criminal justice system in this State that, particularly in alcohol and/or other drug fuelled dysfunctional relationships and communities, it is not uncommon for a male to be a victim of domestic violence’* (See [15]). The respondent was sentenced to life imprisonment with a non-parole period of 17 years.

Issue/s: The non-parole period was manifestly inadequate.

Decision and Reasoning: The appeal was allowed and the respondent resentenced to a non-parole period of 21 years. The nature and extent of the respondent's very significant prior record of violent offending underscored the need to give significant weight to the sentencing objectives of punishment, protection of the public and personal deterrence (See [35]). The circumstances of the respondent's offence placed it at the high end of the scale of seriousness of the offence of murder – she intended to kill the deceased, engaged in a 'sustained, prolonged, frenzied attack', used multiple weapons, and went to considerable lengths to cover up the murder. Her long standing alcoholism contributed to the crime. However, of greater significance, was 'her inability to control her volcanic eruptions of anger, and the regularity and normalisation of her use of violence' (See [37]). The only mitigating factor was the respondent's disadvantaged and dysfunctional upbringing.