

***Kjellgren v Cameron* [2012] WASC 80 (1 March 2012) – Western Australia Supreme Court**

‘Aggravated assault occasioning bodily harm’ – ‘Deterrence’ – ‘Physical violence and harm’ – ‘Sentencing’ – ‘Verbal abuse’

Charge/s: Aggravated assault occasioning bodily harm.

Appeal Type: Appeal against sentence.

Facts: The appellant was in a relationship with the complainant for about four months. The appellant was intoxicated and following a dispute, he was arrested and ordered not to approach the caravan park where the complainant was residing. After being released, he knocked on the door of the complainant’s caravan and verbally abused her, threatened her and punched her to the face multiple times. He then knocked her to the ground. He stopped her from escaping. She was left with serious injuries. He was sentenced to two years’ imprisonment and was made eligible for parole.

Issue/s: Whether the sentence was manifestly excessive.

Decision and Reasoning: The appeal was upheld.

McKechnie J acknowledged the seriousness of the offence especially considering it amounted to a deliberate breach of a police order. This type of violence to women cannot be condoned and as such a sentence of immediate imprisonment was appropriate. However at [11]-[16], his Honour considered various comparable cases and came to the conclusion that the sentence was manifestly excessive. His Honour especially had regard to *Messiha v Plaucs* [2012] WASC 63 where it was held that an 18-month sentence for aggravated assault occasioning bodily harm (including other charges) was disproportionate to the overall criminality of the offending. Nevertheless, general and specific deterrence and the significant injuries that the complainant suffered remained important considerations. The appellant was re-sentenced to 15 months’ imprisonment with parole eligibility.