***R v Murray* [2010] QCA 266 (8 October 2010) – Queensland Court of Appeal**

*Note this case was decided under now superseded legislation however the case contains relevant statements of principle.

'Aggravated stalking' – 'Assault occasioning bodily harm' – 'Breach of domestic violence order' – 'Following, harassing, monitoring' – 'Grievous bodily harm with intent' – 'Physical violence and harm' – 'Serious violent offence declaration' – 'Stealing' – 'Threatening to enter premises with intent to intimidate'

Charge/s: Aggravated stalking (two counts), assault occasioning bodily harm, stealing, grievous bodily harm with intent, breach of domestic violence order (two counts).

Appeal Type: Application for leave to appeal against sentence.

Facts: The offending involved continued harassment of the complainant (the former partner of the applicant), culminating in the charge of grievous bodily harm with intent. The applicant broke into the complainant's home which she shared with her new partner and children. He hit her on the head with a frying pan, causing her to fall to the ground. He held a knife against her throat, tied her wrists and ankles and dragged her into the car. She then threw herself out of the car, at which point the applicant stabbed her in the left side then on her right side. He had a relevant criminal history, including prior offences of violence as well as a breach of a domestic violence order. Two of these offences involved violence against his mother as well as a former partner. Two psychiatric reports detailing the mental issues suffered by the applicant were put before the sentencing judge. The total effective sentence imposed at trial was 8 years' imprisonment. A 'serious violent offence' declaration was made.

Issue/s:

1. Whether the sentencing judge erred in not giving reasons for making a 'serious violent offence' declaration.
2. Whether the sentence was manifestly excessive.

Decision and Reasoning: Leave to appeal was refused.

1. In relation to the serious violence offence declaration, the applicant's counsel at trial conceded that it would be impossible to submit that the declaration should not be made. The sentencing judge referred to this concession, in applying the 'integrated approach to sentencing' which is required in cases where a serious violent offence declaration is appropriate (See at [22]-[23]).
2. Counsel for the applicant contended that 8 years' imprisonment was manifestly excessive, as it was outside of the range established by comparable authorities and it did not have regard to the psychiatric problems suffered by the applicant. This argument was dismissed, with Cullinane J (Fraser JA and

Chesterman JA agreeing) finding that eight years was not outside the permissible range. The mental health issues were considered at trial, as the sentencing judge expressly referred to them.