

***R v Layfield* [2003] QCA 3 (29 January 2003) – Queensland Court of Appeal**

‘Following, harassing, monitoring’ – ‘Mitigating factors’ – ‘Physical violence and harm’ – ‘Sentencing’ – ‘Stalking’

Charge/s: Stalking with a circumstance of aggravation (threats of violence).

Appeal Type: Application for leave to appeal against sentence.

Facts: The applicant was convicted of stalking his former fiancée with the aggravating circumstance that he threatened to use violence against her. A previous domestic violence order was obtained by the complainant and the relationship deteriorated about a year after this. The stalking occurred over a period of less than one year. It occurred over the telephone, as well as by following and loitering outside of her place of employment. He was sentenced to two years imprisonment.

Issue/s: Whether the trial judge should have exercised the option of suspending the sentence after twelve months, on the basis of several factors including the applicant’s youth, lack of criminal history and a strong support network.

Decision and Reasoning: Davies JA (with whom McPherson JA and Mullins J agreed), refused the application, holding that while the trial judge could have imposed the lesser sentence, it was not argued for at trial, and the sentence that was imposed did not demonstrate any error. Davies JA also noted the applicant’s lack of remorse as a relevant factor.