***R v Lan* [2019] QCA 76 (7 May 2019) – Queensland Court of Appeal**

'Attempted murder' – 'People with mental illness' – 'Physical violence and harm' – 'Self-serving statements' – 'Strangulation'

Charges: 1 x attempted murder

Case type: Appeal against sentence

Facts: The applicant was convicted on his plea of guilty of attempted murder (domestic violence offence) and sentenced to 9 years' imprisonment with no further order ([1]). The applicant and complainant were involved in a relationship for approximately one year prior to separating, but remained friends. The offending conduct took place when the applicant attended the complainant's unit. He made unwanted advances towards her, punched her and threatened to kill her. The complainant lost consciousness for a period and, upon regaining consciousness, saw the applicant standing over her with his pants and underwear down. He also strangled the complainant. The applicant later provided self-serving statements to the police which sought to blame the complainant for violent behaviour towards him ([3]-[13]).

Issue: The applicant sought leave to appeal against his sentence on the basis that it was manifestly excessive.

Held: The applicant made a number of written submissions in support of his application ([22]). He maintained that she had burned his face with a lighter ([23]), which was not part of the agreed statement of facts. He also asserted that the complainant suffered from a mental illness ([24]), and sought to minimise the seriousness of his conduct, which demonstrated a lack of remorse or insight ([25]).

The application for leave to appeal against the sentence for attempted murder was refused. Philippides and McMurdo JJA and Mullins J found that the applicant's assertions conflicted with the agreed facts and partly reiterated the self-serving statements he made to police ([26]). Their Honours agreed with the respondent's submissions that the sentence imposed was within the sentencing discretion and supported by authorities such as R v Sauvao, R v Ali, R v Seijbel-Chocmingkwan and R v Kerwin. After analysing these authorities at [28]-[31], their Honours found that they demonstrated that the 9 year sentence was within the sound exercise of the sentencing discretion ([32]).