

***IFM v Queensland Police Service* [2016] QDC 140 (17 May 2016) – Queensland District Court**

‘Breach bail condition’ – ‘Contravention of a domestic violence order’ – ‘Deterrence’ – ‘Physical violence and harm’ – ‘Repeated contraventions’ – ‘Sentencing’

Charge/s: Contravention of a domestic violence order x 2, breach bail condition x 2, and a further contravention charge.

Appeal Type: Appeal against sentence.

Facts: The male appellant and the female complainant were in a relationship. In relation to the first contravention of a domestic violence order, on 18 March 2015, the appellant pushed the complainant over and punched her to the jaw. No physical injury was alleged. After being arrested and charged, the appellant was released on bail. The second contravention of a domestic violence order occurred on 30 May 2015. The appellant grabbed the complainant by the throat and hit her, knocking her to the ground. He kicked her, dragged her to her feet and verbally abused her. The appellant then dragged her to a nearby park, knocking her to the ground again, hit her in the head, picked her up and continued to drag her. No physical injury was alleged. A head sentence of 15 months imprisonment was imposed on the second contravention of domestic violence order.

Issue/s: One of the grounds of appeal was that the sentence was manifestly excessive.

Decision and Reasoning: The appeal was dismissed. Counsel for the appellant submitted that a sentence of 12 months imprisonment with a release after four months was appropriate in light of the authorities of *PMB v Kelly* [2014] QDC 301 and *Singh v QPS* [2013] QDC 37. Durward SC DCJ distinguished both of these cases (see [20]).

Here, Durward SC DCJ was satisfied that a sentence of 15 months imprisonment was not manifestly excessive. This was in light of a number of factors. The appellant’s conduct involved significant aggravating circumstances namely, the first contravention of a domestic violence order was committed two weeks after the expiration of an earlier imposed sentence, the second contravention charge occurred while the appellant was on bail for the former offence, and the appellant had previous convictions for breaches of domestic violence orders (including one committed against the same complainant) (see [21]). Further, the conduct of the appellant in the second charge was ‘sustained and patently violent’. It occurred not only in a residence but in a public area (see [22]). Finally, the appellant had a significant criminal history (see [23]).