

# SUPREME COURT OF QUEENSLAND

CITATION: *R v Comer* [2019] QCA 111

PARTIES: **R**  
**v**  
**COMER, Zachary William Robert**  
(appellant)

FILE NO/S: CA No 341 of 2018  
DC No 776 of 2018  
DC No 2583 of 2018

DIVISION: Court of Appeal

PROCEEDING: Appeal against Conviction & Sentence

ORIGINATING COURT: District Court at Brisbane – Date of Conviction:  
14 November 2018 (Farr SC DCJ)

DELIVERED ON: 7 June 2019

DELIVERED AT: Brisbane

HEARING DATE: 15 May 2019

JUDGES: Gotterson and McMurdo JJA and Mullins J

ORDERS: **1. Appeal against conviction dismissed.**  
**2. Application for leave to appeal against sentence granted.**  
**3. Appeal against sentence allowed.**  
**4. Set aside the sentence of 16 months’ imprisonment imposed for the assault occasioning bodily harm and in lieu sentence the appellant to 12 months’ imprisonment to be served cumulatively on the four months’ imprisonment ordered to be served by the primary judge in respect of the suspended sentences imposed on 24 November 2015 in the Brisbane Magistrates Court.**  
**5. The parole release date is fixed at 14 July 2019.**

CATCHWORDS: CRIMINAL LAW – APPEAL AND NEW TRIAL – VERDICT UNREASONABLE OR INSUPPORTABLE HAVING REGARD TO EVIDENCE – OTHER MATTERS – where the appellant was convicted after trial of one count of assault occasioning bodily harm – where video footage of the incident was shown to the jury – whether it was open to the jury upon the whole of the evidence to be satisfied beyond reasonable doubt that the appellant was guilty of assault occasioning bodily harm

CRIMINAL LAW – APPEAL AND NEW TRIAL – APPEAL AGAINST SENTENCE – GROUNDS FOR INTERFERENCE – SENTENCE MANIFESTLY EXCESSIVE OR INADEQUATE – where the appellant was convicted after trial of one count of assault occasioning bodily harm and was sentenced to 16 months’ imprisonment – where the offence was committed during the operational period of three suspended terms of imprisonment of four months’ each – where each of the suspended terms was activated concurrently – where the sentence of 16 months’ imprisonment was cumulative on the activated suspended sentences – where the parole release date was fixed after 50 percent of the period of imprisonment – whether the sentence was manifestly excessive in the circumstances

*R v Hilton* [2009] QCA 12, considered

*R v Warwick* [2006] QCA 83, considered

COUNSEL: The appellant appeared in person  
J A Geary for the respondent

SOLICITORS: Director of Public Prosecutions (Queensland) for the  
respondent

- [1] **GOTTERSON JA:** I agree with the orders proposed by Mullins J and with the reasons given by her Honour.
- [2] **McMURDO JA:** I agree with Mullins J.
- [3] **MULLINS J:** On 14 November 2018 Mr Comer was convicted after trial before a jury in the District Court of one count of assault occasioning bodily harm committed on 1 October 2016. He was sentenced to 16 months’ imprisonment. The offence was committed during the operational period of three suspended terms of imprisonment, one for serious assault causing bodily harm, one for serious assault and one for assault occasioning bodily harm, and all of which had been committed in March 2015. Each suspended term was four months’ imprisonment. The learned primary judge activated each of the suspended terms, making them concurrent with one another, but ordered that the sentence of 16 months’ imprisonment be cumulative on the activated suspended sentences. The parole release date was fixed after Mr Comer served 10 months in custody which equates to 50 per cent of the period of imprisonment.
- [4] Mr Comer who is self-represented appeals against his conviction on the stated ground that the verdict is unreasonable or cannot be supported having regard to the evidence. He also applies for leave to appeal against the sentence on the ground it is manifestly excessive.

### **History of the proceeding**

- [5] Some of Mr Comer’s complaints were not strictly relevant to his appeal against conviction, but give some context to the reasons for the trial proceeding and Mr Comer’s acceptance on this appeal that he used excessive force when punching the complainant. It appears that at one stage Mr Comer had decided to plead guilty

to the charge, but when he attended to sign the paperwork, he disputed the recitation in the schedule of facts relating to the charge (that presumably was prepared by the prosecution) that the complainant had gone to the street in which Mr Comer lived to speak to him “as he had assaulted the complainant’s son earlier that day”. With the benefit of hindsight, it would have been helpful if Mr Comer had understood that the inclusion of that assertion in the schedule of facts was for the purpose only of explaining from the complainant’s perspective why he had gone looking for Mr Comer and that Mr Comer was not charged with assaulting the complainant’s son and could not have been sentenced on the basis he had committed such an assault. Mr Comer would not sign off on the guilty plea on the basis of that assertion, as he disputed he had assaulted the complainant’s son earlier that day. Mr Comer changed lawyers and asserts that counsel who appeared for him at the trial, after viewing the video of the incident in slow motion, advised him that, because the complainant struck him first, there was enough evidence to run self defence. Mr Comer notes in his written submission that he realises now that was a defence he was never going to win, because he has since learnt that “self-defence law states that you can use the same force as applied to you and not disproportionate in any way”. Despite the concessions Mr Comer made in his submissions, he did not abandon his appeal against conviction.

### **The evidence at trial**

- [6] The complainant and his son and Mr Comer’s father gave evidence for the prosecution. Mr Comer gave evidence for the defence. It was admitted by both the prosecution and the defence that Mr Comer and the complainant were involved in a physical altercation in the relevant street.
- [7] The complainant was 54 years old at the date of the offence. He was medically retired from the police service and in receipt of a disability pension. After being telephoned by his son at around 12.15pm on that day, he attended at the street in which Mr Comer resided. His son has Asperger’s. As a result of what his son had told him, the complainant decided to speak to Mr Comer. He stood on the footpath outside Mr Comer’s home and called out:

“Look, I’m a retired police officer. I’ve been a justice of the peace for over 25 years. I’m here to find out what the issues are with my son.”

A woman came out to the landing and he had a conversation with her. Mr Comer came running out of the house and ran down the steps and was yelling out negative comments about the complainant’s son. The complainant then described what happened in these terms:

“And then he came up to me within arm’s length. I put my arm up like so with open palm because I felt immediately threatened by him and he was very agitated, waving his arms around, to keep some distance between us. And then he said, ‘I asked your son – ’ or something like ‘ – to leave me alone several times.’ And I checked around to see where my son was to make sure he was behind me, and the next thing I felt a punch to the right side of my – to the left side of my face with his right fist and then several punches just ensued, and I went straight into a defensive position like this to try and block the punches hitting me several times on the left and right side of my

face and head and my – my hand here, which bled from the impact, hitting me next to my pacemaker in my chest as well. Then I got a punch straight to the face, nose and mouth, which I thought broke my nose, and I went straight to the ground. Then he kicked me in the back when I was the ground and kept punching me while I was on the ground.”

- [8] The complainant managed to scramble to his feet and eventually got to where his car was parked. His son called the police. He and his son drove home and the paramedics then took him to hospital. He took photographs of his injuries whilst in the back of the ambulance.
- [9] It was admitted by both the prosecution and the defence that the complainant suffered bodily harm described as bruising and swelling to his nose, cuts to his face and head, a cut to his left ear and a cut to his right hand.
- [10] The complainant did not know whether he made contact with Mr Comer by putting up his open palm, when Mr Comer was at arm’s length from him and was waving his arms around and making comments about the complainant’s son. The recording filmed by the complainant’s son on his mobile phone was played. CCTV footage of the street that showed the entire incident between the complainant and Mr Comer was also played that confirmed the complainant’s description of the incident, but also showed that the interaction between the complainant and Mr Comer took around one minute. The CCTV footage showed the complainant knocking on the door of the house next to Mr Comer’s house. There was no answer and the complainant walked across the road to speak to the man who was standing there (who was Mr Comer’s father) before he then went across to Mr Comer’s house.
- [11] The complainant’s son was 18 years old at the date of the incident. He had met Mr Comer and his female friend at a barbecue in the park on that day. Afterwards, he went to the street in which Mr Comer lived to visit another person. When Mr Comer saw him, he told him to get out of the street. There was some sort of physical confrontation between them that involved Mr Comer putting the complainant’s son’s skateboard up to his neck and the complainant’s son running away. He called the police and, when they did not come, he called the complainant. His father “bashed” on the door of the house where Mr Comer lived. When Mr Comer came out wanting to know what the complainant was doing on his property, the complainant responded “well, you’ve just assaulted my son and I’ve come here to talk calmly to you to sort this out”. Mr Comer “invaded” the complainant’s personal space, so the complainant pushed him away, but his hand “slipped up to [Mr Comer’s] neck” and Mr Comer took a swing at him. The complainant ran out on the road and Mr Comer hit him at least three times in the face and then the complainant “got pinned on the ground” and Mr Comer “really started pelting into him”. The complainant’s son conceded in cross-examination that when he was speaking to Mr Comer and the woman earlier in the park, he put a drink bottle into Mr Comer’s crotch area, as it was an easy place to put it and it was not to harm him or be sexual and he touched Mr Comer in the chest area, but it was not sexual. Mr Comer told him to go away.
- [12] Mr Comer’s father was at his workshop across the road from Mr Comer’s house on the day of the incident. He saw the complainant “belting” on Mr Comer’s door. When Mr Comer came out, he and the complainant started shouting at each other.

The complainant took a swing at Mr Comer or pushed him and the fight broke out between them. Mr Comer's father told his son to go back into his house and told the complainant to get out of the street. In cross-examination, Mr Comer's father described the complainant as very agitated, before he confronted Mr Comer.

- [13] Mr Comer's evidence-in-chief was as follows. Mr Comer observed the complainant banging on his neighbour's door and saw the complainant's son outside. He then thought the people were trying to get into his house, kicking his door and saying "open up, it's the police". Mr Comer stayed in the house for 40 minutes. Mr Comer's female friend went outside. Mr Comer waited five minutes and then "flew out the door as quick as I could to go and make sure she was alright". Mr Comer told the complainant to get out of his street, as his son had sexually assaulted him. Mr Comer shouted out other statements about the complainant's son. Mr Comer was trying to back away and the complainant threw a punch at him that started out with his hand in a fist, but it was an open palm when it hit Mr Comer on the shoulder. Mr Comer heard the complainant say to him "you've just assaulted my son". Mr Comer punched the complainant. He fell to the ground. Mr Comer did not kick him.
- [14] Mr Comer had met the son at a barbecue the church ran in the park that morning. Mr Comer was sitting at a bench and the complainant's son jammed a 1.5 litre bottle of drink right into his genitals. Mr Comer told the complainant's son not to touch him, but he got up and lent over the table and grabbed both Mr Comer's nipples and twisted them. Mr Comer and his female friend left the barbecue. The complainant's son followed them to the bank and then to the supermarket. Mr Comer asked him to stop following them.
- [15] In cross-examination, Mr Comer did not accept (which was the fact) the CCTV footage showed that it was only 10 minutes in total between the complainant entering his street and when he left after the assault (and therefore Mr Comer could not have stayed in the house for 40 minutes). Mr Comer agreed that he was extremely agitated after his interaction with the complainant's son earlier in the park. He disagreed that he became even more agitated, when he saw the complainant's son in his street after the barbecue. Mr Comer had told the complainant's son at the supermarket, that he would break his leg if he kept following them. Mr Comer's denied that he had pushed the complainant's son up against the fence and pushed his skateboard into his neck.

### **Was the verdict unreasonable?**

- [16] Mr Comer's counsel at trial had addressed the jury on two possible ways by which they could acquit Mr Comer – whether the prosecution could exclude beyond reasonable doubt that the fight was consensual or whether the prosecution could exclude self defence beyond reasonable doubt. The video footage shown to the jury of the incident was compelling. Even though it showed the movement by the complainant that could have been mistaken by Mr Comer as a punch that initiated the physical altercation, the flurry of punches that followed from Mr Comer that were undefended by the complainant and the continuation of the attack when the complainant was on the ground was out of all proportion to the first contact by the complainant with Mr Comer. Upon the whole of the evidence, it was clearly open to the jury to be satisfied beyond reasonable doubt that Mr Comer was guilty of

assault occasioning bodily harm. Mr Comer's appeal against conviction cannot succeed.

### **Mr Comer's antecedents**

- [17] Mr Comer was 41 years old at the date of the offence. He has a dated New South Wales criminal history that primarily relates to driving offences with one breach of apprehended violence order and one break enter and steal dealt with on 15 July 1996. Although his Queensland criminal history dates from 1997, it comprises street offences and minor drug offending and two convictions for wilful damage committed in 2011 and 2014, until Mr Comer was dealt with in the Brisbane Magistrates Court on 24 November 2015 for one charge of serious assault police officer causing bodily harm committed on 7 March 2015, one charge of serious assault police officer committed on 7 March 2015 and assault occasioning bodily harm committed on 8 March 2015, in respect of which the three suspended terms of imprisonment of four months for an operational period of 15 months were imposed.
- [18] The serious assaults were committed against two police officers who attended at Mr Comer's address in relation to a warrant for a failure to appear. Mr Comer became enraged and resisted arrest, striking both officers in the face multiple times, placing one officer in a headlock twice, and scratching the other officer in the face. One of the officers suffered abrasions and lacerations to his hand and face and required hospital treatment and the other officer sustained bruising to his face. The assault occasioning bodily harm occurred the next day after Mr Comer had been taken to hospital and kicked a security officer in the head who was restraining him to enable a nurse to take blood. The security officer suffered swelling and a headache.
- [19] Mr Comer was convicted in the Magistrates Court on 30 March 2016 of contravention of domestic violence order committed on 30 December 2015 for which he was fined \$500. This conviction resulted in the operational period of the suspended sentences imposed on 24 November 2015 being extended for three months until 24 May 2017. On 13 June 2017 Mr Comer was sentenced to nine months imprisonment with an immediate parole release date for unlawful possession of motor vehicles with intent to deprive committed between 23 February and 21 October 2016. As a result of committing breaches of bail including a failure to appear in accordance with undertaking on 12 July 2017, the parole order was suspended and he was returned to custody on 29 July 2017 where he remained until he was released on court ordered parole on 26 October 2017. He has other breaches of bail and failures to appear that were dealt with in the Magistrates Court in 2018.

### **Sentencing submissions before the primary judge**

- [20] The prosecutor tendered the complainant's victim impact statement which described the consequences to him of the fight which were more significant for him than the physical injuries. They included the reduction in his confidence in engaging in the local community and continuing concern for his disabled son's safety and his own safety. The prosecutor also tendered the report on Mr Comer's performance under the court ordered parole order imposed on 13 June 2017. Mr Comer was identified with high needs in the areas of employment, substance abuse and mental health. Although that parole order was suspended for about three months when he was taken into custody, on his release he complied reasonably with supervision

throughout the remaining period of the order and he was considered suitable for further community based supervision. The prosecutor at trial submitted the range for the offence was 12 to 18 months' imprisonment and that Mr Comer should be ordered to serve the whole of the suspended terms of imprisonment cumulatively. (At one point in the transcript, it is recorded that the prosecutor submitted the range was "12 to 10" months' imprisonment, but it is apparent that was intended to be 12 to 18 months and that was how the submission was treated by Mr Comer's counsel.) The prosecutor relied on the comparable authorities of *R v Warwick* [2006] QCA 83 and *R v Hilton* [2009] QCA 12.

- [21] Counsel for Mr Comer estimated from the footage that Mr Comer had thrown about eight punches and described it as "a protracted assault". He did not dispute the range of 12 to 18 months, but submitted that it should not be as long as 18 months, if the suspended sentences were activated in full. It was submitted that, although not declarable, the court also had to be cognisant of the fact that Mr Comer had "done some time recently in prison" which was a reference to the period of three months spent in custody between 29 July and 26 October 2017. It was also submitted that the court should take into account in terms of imposing a penalty that, as exhibited in the video and supported by the complainant's son and Mr Comer's father, the complainant was irate and annoyed when he was outside Mr Comer's house. Mr Comer had instructed that he had been injured in industrial accidents and a car accident, but there was no injury that was relevant to fixing the sentence.

### **Sentencing remarks**

- [22] The primary judge observed:

"You attacked the complainant for no real reason. You did so in such a way that he was taken completely by surprise. And your attack on him involved quite a number of punches to the head. We can see the effect of those punches in the photographs which are exhibits before the Court. You punched him whilst he was standing and after he fell to the ground. And I accept the complainant's evidence that you also delivered a kick to his back whilst he was on the ground, although it would not seem that that kick caused any injury to him, although it might have caused him some pain. This was a gratuitous attack upon an unsuspecting man. Whether he was annoyed with the way that you had treated his son earlier, is hardly to the point. It is quite apparent from the recorded footage that your attack upon him occurred very soon after you came out of the house. And your behaviour was undoubtedly and extraordinarily – an extraordinarily overreaction to anything that was going on at the time."

- [23] The following further observations were made. Mr Comer had not cooperated with the administration of justice, but would not be punished more severely, because he had exercised his right to a trial by pleading not guilty. Although Mr Comer would not have been expected to know the complainant had significant health issues, it is relevant to take into account that the complainant did so. Mr Comer attacked the complainant in front of the complainant's son and that would have been a terrifying experience for both the complainant and his son. The effect of the blows on the

complainant is evidenced in the recordings. He was stunned, staggered a little as he walked away from the scene to get some distance between himself and Mr Comer and then had to sit down, before being led away by his son. Mr Comer offered no assistance to the complainant at any stage and did not approach him in any sort of conciliatory way. Given the nature of the evidence against Mr Comer, a conviction was the inevitable outcome of the trial. Given Mr Comer's history of violence and the fact that he was the subject of an operational period of a suspended sentence for offences of violence at the time the offence was committed, personal deterrence was an important consideration on sentence. General deterrence and public denunciation of such acceptable anti-social and violent conduct was of considerable relevance. It was a protracted assault. The appropriate sentence falls to the upper end of the appropriate range of 12 to 18 months' imprisonment. As the suspended sentences should be activated in full, the sentence will be 16 months' imprisonment that is reduced from the sentence that would otherwise been imposed of 18 months' imprisonment. Account had been taken of the fact that Mr Comer had spent some time in custody for another offence, but that was not attributable to any matter before the primary judge.

### **Submissions on the sentence application**

- [24] Mr Comer submitted that each of the comparable authorities of *Warwick* and *Hilton* were more serious cases than his offending.
- [25] Mr Comer took exception to the primary judge's description of the incident that Mr Comer had attacked the complainant for no real reason and did so in a way that took the complainant completely by surprise. Mr Comer submitted that the judge did not view the footage in slow motion and therefore did not see the complainant assault Mr Comer first. (During the trial, the jury asked the primary judge whether the CCTV footage covering the main confrontation could be replayed in slow motion. The primary judge explained to the jury they would have the videos with them in the jury room when they were deliberating and facilities to replay it for themselves. The CCTV footage was therefore not replayed in the court. It is from this exchange that Mr Comer inferred the judge did not view the footage in slow motion.)
- [26] Mr Comer relied on a change in his family circumstances since the sentencing that he considered made it preferable that his sentence be suspended in lieu of a parole release date.
- [27] The respondent submitted that "surprise" was appropriate to describe the complainant's response to the reaction of Mr Comer who punched him several times rather than continuing the verbal altercation. The respondent submitted that the sentence that was imposed was within the range applicable to Mr Comer's offending and history.

### **Was the sentence manifestly excessive?**

- [28] The primary judge saw the videos played during the course of the trial and heard all the evidence. As the jury were to decide the question of whether or not Mr Comer was guilty, the primary judge was not required to view the videos in slow motion. It is not surprising that the primary judge described the incident in terms of Mr Comer's attacking the complainant, as that was the language that was used by Mr Comer's own counsel in addressing the jury. His counsel had referred to Mr

Comer's evidence that he was punched by the complainant and that Mr Comer "went and attacked" and observed "whether you think the attack was over the top is another matter". Even though there was a movement by the complainant towards Mr Comer at the outset of the physical engagement and the complainant's palm touched Mr Comer's shoulder as a result, it is not inaccurate to describe what followed as an attack by Mr Comer.

- [29] The maximum penalty for the offence of assault occasioning bodily harm is seven years' imprisonment.
- [30] The offender in *Warwick* pleaded guilty to an assault occasioning bodily harm. The offender was 29 years old and described as a "deaf mute who has schizophrenia", when in 2004 he argued with the 42 year old female complainant who was the occupier of the house in which he was a guest after she asked the offender and his girlfriend to leave the house. The offender pushed the complainant in the chest and punched her in the face with enough force to fracture the left side of her jaw. The offender had previous convictions for offences of assault occasioning bodily harm in 1995 and 2002, common assault in 2004 and two breaches of a domestic violence order in 2004. He had been released from custody shortly before the commission of the offence. In determining the head sentence, the sentencing judge had taken into account the offender's difficulties as a deaf mute with schizophrenia and that he had already served some time in prison for breaching his bail in relation to the offence for which he was being sentenced. The inference drawn by Douglas J who delivered the judgment of the court was that the sentencing judge had taken the guilty plea into account by imposing a lesser sentence of 12 months' imprisonment without any mitigation rather than a sentence in the order of 16 months that would otherwise have been imposed without the guilty plea. It was held that sentence was within the range of a proper exercise of the sentencing discretion, taking into account the offender's record.
- [31] The only issue in *Hilton* was whether a sentence of 18 months' imprisonment suspended after six months in custody for an operational period of two years was manifestly excessive by reason of requiring part of the sentence to be served in custody. The offender was 35 years old with a minor criminal history of little relevance other than two previous convictions for assault. There were outstanding issues between the offender and the complainant over the sale of a car. The complainant was the passenger in a motor vehicle being driven through a bottle shop at a hotel, when the offender drove his vehicle so as to block the path of the vehicle in which the complainant was travelling. The offender walked to the complainant's window and said he wanted to fight him. After an exchange of words, the offender pulled the complainant out of the car window. The complainant managed to hit the offender's legs with a baton, but the offender punched the complainant's face with his right hand, the complainant fell to the ground and the offender then punched the complainant in the head about six or seven times rendering him unconscious and then kicked the complainant in the head three or four times. The offender was not wearing shoes. It was noted to be "a matter of special concern" that the offender continued his assault after the complainant had been rendered unconscious. The complainant suffered a fractured cheekbone, assorted lacerations and bruising to the head and left arm, and scarring to his face. The guilty plea was not an early plea, as there had been a committal where there was cross-examination of the complainant and other witnesses and the matter was

twice listed for trial before the offender pleaded guilty. Keane JA with whom the other members of the court agreed observed at [23]:

“The assault was not an act of youthful misjudgement: the applicant is a mature man, and his attack on the complainant was prosecuted with deliberation and determination. The complainant suffered serious injury. It is a matter of special concern that the applicant continued his attack upon the complainant by kicking him after he had been rendered unconscious. It cannot be said that the sentence was manifestly excessive on the material which was before the learned sentencing judge.”

- [32] The victims in *Warwick* and *Hilton* suffered much more serious injuries than the complainant did in the assault by Mr Comer. There are similarities between the criminal history of the offender in *Warwick* and Mr Comer’s criminal history. The mitigating characteristics of the offender in *Warwick* lose their significance in the circumstances in which he assaulted the complainant in her own home. The assault in *Hilton* was a sustained assault, continuing after the victim was unconscious. The assault by Mr Comer was over in about one minute. Fortunately the complainant was left with relatively minor injuries, even though they constituted bodily harm. The description by the primary judge of “a protracted assault” was no doubt referable to the number of punches, rather than an assault that lasted for a significant time. Those comparable authorities therefore suggest the primary judge’s starting point for the sentence of 18 months’ imprisonment, before allowing for the fact the sentence was to be cumulative on the activated suspended terms, was outside an appropriate sentence for Mr Comer’s offending, even taking into account his relevant criminal history.
- [33] Although it was an aggravating circumstance that the assault was committed during the operational period of the suspended terms of imprisonment that had been imposed on Mr Comer in November 2015, he was, in effect, being punished for that aspect by the fact that the suspended sentences were activated in full. There was no error in the suspended sentences being activated in full, and it was appropriate to make some allowance for the cumulative effect of the sentence. The imposition of a sentence of 16 months’ imprisonment cumulative on the suspended sentences was not supported by *Warwick* and *Hilton* and is therefore manifestly excessive in the circumstances.
- [34] It is necessary to re-exercise the sentencing discretion. The appropriate sentence consistent with the authorities (that allows for the cumulative aspect of the sentence) is 12 months’ imprisonment cumulative on the activated suspended sentences. In light of Mr Comer’s recent criminal history, it is preferable that he be supervised on his release. The parole release date should be fixed after Mr Comer has served 50 per cent of the period of imprisonment of 16 months.

### Orders

- [35] The orders should be:
1. Appeal against conviction dismissed.
  2. Application for leave to appeal against sentence granted.
  3. Appeal against sentence allowed.
  4. Set aside the sentence of 16 months’ imprisonment imposed for the assault occasioning bodily harm and in lieu sentence the appellant to 12 months’

imprisonment to be served cumulatively on the four months' imprisonment ordered to be served by the primary judge in respect of the suspended sentences imposed on 24 November 2015 in the Brisbane Magistrates Court.

5. The parole release date is fixed at 14 July 2019.