

**Kylie Weston-Scheuber, Extract from PhD thesis (ANU):**

Here I reconstruct the reasons for sentence in the Julie Ramage manslaughter case from a feminist perspective, drawing upon alternative facts available in the book written about her death by Phil Cleary.<sup>1</sup> In doing so, I attempt to illustrate the way that alternative facts can be utilised to construct a picture of offending behaviour very different to that presented by the sentencing judge. This 'alternative picture' is one consistent with control-based and feminist understandings of domestic violence perpetration. Rewriting judicial decisions from a feminist perspective has potential as a means of utilising 'resistant discourse' to expose and undermine the power of masculinist ideology.<sup>2</sup>

Although the feminist rewriting in this case includes the imposition of a harsher penalty than was imposed by the sentencing judge, it is important to note that a reconceptualisation of domestic violence in line with the analysis presented here is not suggested with a view to increasing penalties automatically for domestic violence perpetrators, though that may well be a consequence in individual cases. Rather, this analysis seeks to open up new ways of conceptualising the actions of perpetrators that may have implications for sentencing both those engaged in terrorism and perpetrators of domestic violence.

## R v RAMAGE

James Ramage, you have been convicted by a jury of the murder of Julie Ramage at Balwyn on 21 July 2003.

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<sup>1</sup> Cleary (2005), *Getting Away with Murder*, Allen and Unwin.

<sup>2</sup> For examples of feminist judgment-writing see Hunter, Rosemary, McGlynn, Clare and Rackley, Erika (2010) *Feminist Judgments*, Hart Publishing.

Your counsel attempted to argue a provocation defence on your behalf, however I refused to allow that defence to go to the jury. I will say more about that in due course.

You and the deceased married in 1980 when she was 19 years old and you were 20. You had two children together, a son Matthew, now aged 19, and a daughter Samantha, aged 15.

It is clear that the deceased was unhappy in the relationship in the two years prior to her death. The evidence indicates that she found your behaviour controlling and oppressive. You had also previously been violent towards her.<sup>3</sup> There was an incident in 1991 when you headbutted her and broke her nose. You broke glasses and had an explosive temper.<sup>4</sup> There were also other instances of physical violence towards the deceased,<sup>5</sup> your daughter Samantha, and also your previous business partner.<sup>6</sup> It is apparent from these instances that you were a person who used violence as a punishment when you were angry or felt that you had not gotten your way about something.

The deceased had, during the course of the relationship, also confided in friends about your tendency towards sado-masochistic sex, constant demands for sex and that sexual intercourse with you felt like 'rape'.<sup>7</sup>

There was evidence before the court of the extent of your controlling behaviour in the relationship. The evidence of your cleaning lady was that the deceased would keep money hidden in the house to pay her extra, but made her promise not to tell you because you would 'go mad' if you find out she was paying her more.<sup>8</sup> You also sought to isolate the deceased from her family and friends, preventing her from attending important family celebrations.<sup>9</sup> You controlled aspects of her behaviour such as what she ate and what she

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<sup>3</sup> *R v Ramage* [2004] VSC 508 (Unreported, Osborn J, 9 December 2004), [3].

<sup>4</sup> Cleary (2005), p 17.

<sup>5</sup> Cleary (2005), p 100. Evidence of previous violence was withheld from the jury on the basis that it was too long ago to be of relevance: Cleary (2005), p 119.

<sup>6</sup> Cleary (2005), p 155. This evidence was not given at trial.

<sup>7</sup> Cleary (2005), p 28.

<sup>8</sup> Cleary (2005), p 14.

<sup>9</sup> Cleary (2005), p 100.

wore.<sup>10</sup> It is apparent that you used physical, economic and social abuse as a mechanism to control the behaviour of the deceased in the relationship.

In 2003, the deceased moved out of the house you shared together while you were away on a business trip and told you that the relationship was over. It is clear that you were unable to accept the deceased's decision to separate from you. Despite her decision, you continued to make attempts to reconcile with the deceased, including contacting her, obtaining counselling and asking her to attend with you, and seeking advice from friends, especially the deceased's friends, as to how you could win her back.<sup>11</sup>

It is equally clear that the deceased benefited from the separation and indeed at the time of her death had established a new relationship that had brought her some happiness.<sup>12</sup>

It is apparent the deceased was afraid of you and in fact had told a number of people that you would kill her if you found out about her new relationship.<sup>13</sup> She had previously fled from you in 1987 when she was pregnant, fearing that you were going to kill her.<sup>14</sup>

Unfortunately, you were unable to accept that your wife had moved on and established a new relationship, and spoke to family and friends with some obsession, seeking to find out about the new relationship and how serious it was.

On 21 June 2003, you had invited the deceased over to the house to see new renovations you had done. You stated in your interview that you still entertained your hope that the relationship could be re-established, notwithstanding the deceased's indications to you that the relationship was over and your knowledge that she had embarked upon a new relationship.

In your Record of Interview, you gave a version of events of what took place after the deceased visited the home. You said that the deceased dismissed

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<sup>10</sup> Cleary (2005), pp 158-9.

<sup>11</sup> *R v Ramage* [2004] VSC 508 (Unreported, Osborn J, 9 December 2004), [6].

<sup>12</sup> *R v Ramage* [2004] VSC 508 (Unreported, Osborn J, 9 December 2004), [8].

<sup>13</sup> Cleary (2005), pp 21, 23. In fact, this evidence was withheld from the jury on the basis that it was unfairly prejudicial: Cleary (2005), pp 118-9.

<sup>14</sup> Cleary (2005), p 27.

the renovations as being of no significance; that you pleaded with her to return; and that she said, 'You don't get it do you? I'm over you. I should have left you 10 years ago'.

You said that she questioned whether your daughter wanted to visit you as much as she had. You said that you then raised the issue of her new partner and she said that it was none of your business. You asked how serious the relationship was and she said that she had had sleepovers and screwed up her face and said that sex with you repulsed her and said or implied that sex with her new partner was much better.<sup>15</sup>

It was at this point that you say you 'lost control' and after striking two heavy blows to the deceased's head, she fell to the floor at which point you strangled her until she was no longer breathing.

I rejected your counsel's argument that provocation should be left to the jury. If I accepted that events had indeed unfolded as you said they did, I still would not accept that such conduct on the part of the deceased is capable of characterisation as 'provocative conduct' of the kind that might cause the ordinary person to lose self-control. Every day all over Australia, relationships disintegrate and couples separate. There is no way that being informed of an intention to leave a relationship, particularly in circumstances where you already knew that was the deceased's wish, could be viewed in any way as provocative. Nor could comments about the deceased's new lover's sexual prowess, if in fact such comments had been made, amount to provocation. The ordinary person is expected to act with a minimum level of self-control to comments that might be regarded as insulting or hurtful.

In any case, I reject the version of events described by you in your Record of Interview. Friends of the deceased gave evidence that she rarely swore, and that it would not have been in her nature to abuse you.<sup>16</sup> A counsellor who saw you both six days before this incident gave evidence that the deceased did not do or say anything provocative during the counselling session, but

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<sup>15</sup> *R v Ramage* [2004] VSC 508 (Unreported, Osborn J, 9 December 2004), [17]-[22].

<sup>16</sup> Cleary (2005), p 157. This evidence was not given at trial.

instead was open and civilised.<sup>17</sup> Indeed, the evidence points to the conclusion that the deceased had in fact taken pains to ensure that she dealt with you in relation to the separation in a thoughtful and compassionate way. The idea that the deceased, who was familiar with your violent tendencies and had expressed fear to her friends about the possibility of you killing her, would speak to you scornfully in the manner you have said, when she was alone with you in the house, is simply fanciful.

I note that you were significantly larger and stronger than the deceased.<sup>18</sup> I note also that it is not possible to tell how many blows were delivered to Julie. In your interview, you said that she did not resist for long, however the bruises on her neck and left wrist and third knuckle of her right hand indicate that she struggled to dislodge your grip on her neck.<sup>19</sup>

Evidence was called from a range of psychologists and counsellors who saw you immediately prior to or subsequent to the killing. Their view was that you were at the time of the killing in a state of extreme obsessive anxiety and that you were desperately seeking to reassert control over the relationship with your wife.<sup>20</sup> I consider this evidence consistent with the view expressed above that you were in fact a controlling person who used violence and other mechanisms strategically to control the behaviour of your partner, and that you believed you were entitled to do so as she was your wife.

Despite your attempts to portray the killing of the deceased as unpremeditated, there were a number of features of the killing that bespeak premeditation. On the morning of the killing, the builder conducting your renovations, Graeme McIntosh, arrived and found a note asking him to call you. You said that Julie was coming around and you would rather he not be there when she arrived. You later called and asked him to leave before 12, rejecting your offer to wait around the corner until she had left.<sup>21</sup> I note the evidence that prior to the killing, you had cut a two-foot length of rope from a

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<sup>17</sup> Cleary (2005), p 30.

<sup>18</sup> *R v Ramage* [2004] VSC 508 (Unreported, Osborn J, 9 December 2004), [33].

<sup>19</sup> Cleary (2005), p 3.

<sup>20</sup> *R v Ramage* [2004] VSC 508 (Unreported, Osborn J, 9 December 2004), [35].

<sup>21</sup> Cleary (2005), pp 12-3.

roll in the garage.<sup>22</sup> The rope was found alongside items of your clothing and tea towels used to clean up the deceased's blood, buried near her body.<sup>23</sup> Although it is not clear how the rope was used in the offence, I accept the Crown's submission that its presence at the burial site indicates that it was used in the commission of the crime, and that it was cut prior to the deceased visiting the house.

I note also that on the answers in your Record of Interview, it took less than an hour and a half for you to dig the two holes in which the deceased and other items were buried, for you to place the deceased and those items in the holes and cover them up. The unlikelihood of a person unaccustomed to physical labour being able to complete this in such a short period of time is strongly suggestive of the holes having been dug at an earlier point in time.<sup>24</sup>

After killing the deceased, you engaged in a series of detailed actions by way of covering up what you had done. You cleaned the scene of the crime with detergent. You moved the cars around – your car had previously been outside so you moved it into the garage to allow you to place the deceased's body and belongings inside it.<sup>25</sup> You made a series of phone calls (including to the deceased's phone) to give the impression you did not know of her whereabouts; you moved her car to a nearby carpark; you drove to a remote location and roughly buried the deceased's body and her belongings separately. You then returned to Melbourne, attended an appointment to order some granite benchtops where you were calm and collected; showered and dressed, and took your son out to dinner and answered a call from your daughter, all the while giving the impression you had no idea where the deceased was.<sup>26</sup>

I find these actions to be inconsistent with a person who had suddenly lost self-control and reacted on the spur of the moment. The calm and calculated nature of your actions in attempting to cover up what you had done is consistent with the actions of a person who was in control of what he was

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<sup>22</sup> Cleary (2005), p 7.

<sup>23</sup> Cleary (2005), p 40.

<sup>24</sup> Cleary (2005), pp 40-1.

<sup>25</sup> Cleary (2005), p 33.

<sup>26</sup> *R v Ramage* [2004] VSC 508 (Unreported, Osborn J, 9 December 2004), [34].

doing and took steps to attempt to ensure the killing could not be attributed to him. It is also consistent with the characterisation of your conduct in killing the deceased as planned and premeditated.

I find beyond reasonable doubt that you invited the deceased to the house that day with the intention of giving her one last opportunity to reconcile with you, but with the intention that if she refused, you would punish her by taking her life.

Some evidence has been put before me attempting to demonstrate that you are remorseful for your actions. Although it is clear that you have regret for the consequences of your actions, it is not clear to me that you have any genuine remorse for killing the deceased, in circumstances when she had begun a new life and had much to look forward to.<sup>27</sup>

Dr Walton's evidence on sentence was that you were unlikely in general terms to reoffend.<sup>28</sup> However, I do not accept that this is the case. Through your prior behaviour towards the deceased, and particularly your actions on 21 June 2003, you exhibited a capacity to take actions of an extreme and violent nature in order to regain control over a situation you felt was rapidly spiralling out of control. There is no basis upon which I could be satisfied that, given the same circumstances again, you would not act in the same way. Therefore, the protection of the community, and in particular of women with whom you might subsequently form an intimate relationship, remains an important consideration upon sentence.

James Ramage, for the murder of Julie Ramage I sentence you to 20 years' imprisonment with a non-parole period of 15 years.

**Dr Kylie Weston-Scheuber**

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<sup>27</sup> *R v Ramage* [2004] VSC 508 (Unreported, Osborn J, 9 December 2004), [48].

<sup>28</sup> *R v Ramage* [2004] VSC 508 (Unreported, Osborn J, 9 December 2004), [42].