

CITATION: *Police v Stephens Junior* [2026] NTLC 8

PARTIES: *Police*

v

*Benedict Stephens Junior*

TITLE OF COURT: LOCAL COURT

JURISDICTION: CRIMINAL

FILE NO(s): 22532425

DELIVERED ON: 13 October 2025

DELIVERED AT: Alice Springs

HEARING DATE(s): 31 July 2025  
27 August 2025  
8 October 2025

DECISION OF: Judge Woodroffe

**CATCHWORDS:**

CRIMINAL LAW – Criminal Code Act – Assault – Choking, Strangulation and Suffocation – 000 emergency call to operator – Defendant’s communication to victim while in custody – ‘coercive control’ – Denial of violence by complainant in context of domestic violence – *Morluk v Firth* – *Morluk* principles in context of *Liberatto* direction – Credibility of witness demeanour and body language.

*Criminal Code Act 1983 (NT) ss 186AA, 188(1)(2)*  
*Evidence (National Uniform Legislation) Act 2011 (NT) ss 38, 165*  
*Domestic and Family Violence Act 2007 (NT) ss 4, 5B, 9(5)*

*Morluk v Firth* [2017] NTSC 91  
*Warford v Firth* [2017] NTSC 75  
*NS v Dunne* [2021] NTSC 77  
*Mardinga v Williams* [2025] NTSC 65  
*Wodidj v Rigby* [2023] NTSC  
*Liberatto v The Queen* (1985) 159 CLR 507  
*De Silva v The Queen* (2019) 268 CLR 57

**REPRESENTATION:**

*Counsel:*

Prosecution: Mr Pulsford (Ward Keller)

Applicant: Ms Williams (NAAJA)

Decision category classification: C

Decision ID number: [2026] NTLC 8

Number of paragraphs: 63

IN THE LOCAL COURT  
AT DARWIN IN THE NORTHERN  
TERRITORY OF AUSTRALIA

No. 22532425

BETWEEN:

**Police**

AND:

**Benedict Stephens**

Defendant

REASONS FOR DECISION  
(Delivered 13 October 2025)

JUDGE WOODROFFE

**Background**

1. The Defendant, Benedict Stephens pleaded not guilty to two charges:

Count 1: That he contravened section 188(1) and (2) of the *Criminal Code Act 1983* (NT) (Criminal Code) by unlawfully assaulting Lornie Djana. That she suffered harm. That she is female while the Defendant is male.

Count 2: That he intentionally Choked, strangled, or suffocated Lornie Djana contrary to s 186AA of the Criminal Code. That Lornie Djana did not consent to the choking, strangling or suffocation, and that the defendant was reckless as to that circumstance.

2. The alleged offending occurred on 3 December 2024 at House 32 in Haasts Bluff. The incident began that evening with an argument in the parties' bedroom. The Defendant wanted Lornie Djana, his domestic partner, to get him some food to eat. Shortly afterwards, outside the house, the Defendant delivered a number of punches to Lornie Djana's person with a closed fist. The impact caused the pregnant Lornie Djana to fall to the ground, from which she was then dragged by the 'scruff' of her shirt along the ground and pulled into a standing position. The Defendant then intentionally applied force to Lornie Djana's neck with one hand and did choke her. This action caused her to struggle to breath and to scream for help.
3. The following are admitted facts between the parties<sup>1</sup>:
  - i. That the Defendant and Lornie Djana were in a relationship;

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<sup>1</sup> Exhibit P2.

- ii. That they were staying at Sonia Jugadi's house (House 32), who is the mother of Lornie Djana; and
  - iii. That the defendant was arrested at that location that same evening, by Constable Sam George and Constable Callum, Innes and conveyed in custody to Papunya police station.
4. The hearing was a matter of small compass, namely, whether the allegations of physical violence and choking did in fact occur. In that respect, the prosecution had the onus to prove each charge and its constituent elements, as well as each circumstance of aggravation beyond a reasonable doubt.
5. The prosecution's case consisted of the complainant, Lornie Djana's testimony, her representations and subsequent recorded statement. The second prosecution witness was Sonia Jugadi, the mother of the complainant's testimony and recorded statement to the lead investigating officer Constable Innes. On the prosecution's case was admitted evidence of two emergency 000 telephone calls made by Sonia Jugadi. Both arresting officers provided testimony of the arrest, including observations of injuries and demeanour of the complainant. Further adduced evidence was a translation of comments made by Benedict Stephens in the Lurritja language while in the back of a caged police vehicle after his arrest.<sup>2</sup>
6. Prior to the alleged offending, a pregnant Lornie Djana and Benedict Stephens Junior moved from an outstation into her mother's house following desert storms. Haasts Bluff itself was cut off by road at the river crossing to the community. Police described the road conditions as treacherous, given the large amount of rain.

### **Evidence of Sonia Jugadi**

7. Sonia Jugadi, a mother to three daughters, including the complainant Lornie Djana, gave evidence on oath that on 3 December 2024 she called the Police on two occasions. Each emergency call was played to the Court and the witness. Ms Jugadi gave evidence that at the time of the first call she was inside and heard Lornie screaming outside. She professed that she could not see what was happening as it was dark, and she has a cataract in one eye; that when she went outside, her daughter, Lornie Djana, slapped the defendant; that Ms Jugadi pushed him; that the defendant didn't punch her, and that Lornie Djana had scratched her face.<sup>3</sup>
8. Her evidence regarding the second 000 call, was that the Police could take the defendant to settle down away from the family, as her daughter, Lornie Djana, was pregnant.<sup>4</sup> She had separated Benedict Stephens from her daughter so she could take her to the hospital.<sup>5</sup>

### *The 000 Call*

9. The first telephone call Sonia Jugadi made that evening was to an emergency call operator. She did adopt in her testimony that the voices heard were of herself and Lornie Djana speaking to

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<sup>2</sup> Exhibit P14.

<sup>3</sup> 27 August 2025 Transcript 6.2-3.

<sup>4</sup> 27 August 2025 Transcript 6.4.

<sup>5</sup> 27 August 2025 Transcript 6.9.

the operator. Following introductory questions and answers, the most relevant portion of the conversation is as follows:

...

**O:** And that's in Haasts Bluff community, isn't it? Yeah. What's happening there?

**SJ:** Yeah, same person. My daughter's friend Benedict Stephen, he fighting my daughter Lornie. I'm the mother.

I always tell him, I want him to stay with his family.

Threatening and fighting my daughter. Lornie Djana.

[Loud male and female voices in background]

**SJ:** I need a police. Benedict here looking for trouble.

[Loud voices and female in distress, child crying. Language by witness. There is a long pause where there is no contact from the caller before returning]

**O:** What's going on?

**SJ:** I need police for Stephens, he's here. I need a police to come... She here. He was hitting my daughter. She's 8 months pregnant and I need police to come now. I need police to come take him. I hate that fucking man.

**O:** Any weapons on him?

**SJ:** Fighting hand. He's punching on my nephew, he's a young fella, he's a man. No weapon, only hand, need police to come right now.

Make your head better, he's a fucken mental. I'm really upset. I'm getting tired now ....I'm old fella.

**LD:** Excuse I got hit and I got problem my arm, my finger a bit swollen. And my face. finger and face swollen up. I'm 25 weeks pregnant. And my partner doesn't care he always hurt me. He always threaten me. He doesn't care. My partner doesn't care he always hurt me. . Call the police to come right now. I'm Lornie.

....

**O:** So he hit you in the face did he?

**LD:** Hit every side, and a drag ? too on the floor.

**O:** Do you need an ambulance or clinic?

**LD:** Yes I need ambulance, I need police too.

**O:** What injuries do you have?

**LD:** My face, its not bleeding, its its just swollen, face, and my finger too.

10. The second telephone call by Sonia Jugadi was to a different emergency call operator. A summary of the relevant portion of the conversation is as follows:

....

**O:** So why have you called again? What do you need police for?

**SJ:** I need to the police to come and take this .... He's causing lot of problems.

**O:** Who's causing problems?

**SJ:** Benedict junior Stephens.

...

**SJ:** They're together with my daughter.

**O:** He's your daughter's partner. Yes. And what's happening? Why do you need police?

**SJ:** She's like uh eight months pregnant.

**O:** And so what's happening? Um, what's her, what's Benedict doing to Lornie?

**SJ:** I told you before she is been hitting.

**O:** He's been hitting her? Yeah. I haven't spoken to you before, ok.

**SJ:** I was talking to you before and she was talking to you Lornie.

**O:** I haven't spoken to you tonight, ok. Yeah. You need to tell me the details is are there any injuries?

**SJ:** No injuries.

**O:** Any weapons?

**SJ:** No weapons.

....

**O:** Is there any drugs and alcohol involved?

**SJ:** No.

....

**SJ:** She is, he is telling me and she talking, talking, talking. You on the fight.

**O:** To confirm there are no injuries?

**SJ:** He's still on the fight.

**O:** Is anybody injured?

**SJ:** No.

.....

11. Both emergency calls were admitted into evidence as exhibit P4.

## Evidence of Lornie Djana

12. The complainant gave evidence on affirmation and provided a narrative of the events on 3 December 2024<sup>6</sup>. Lornie Djana explained that she was laying down in the sitting room watching a movie with her partner and children present. She told him that she wanted to eat something as she was hungry, but he didn't want to get up as he was too tired,

that's why I got upset. I was talking we went outside to see him. He was telling me to go inside. I was just like standing there talking. And then my mum came and punched him to the nose because she couldn't see in the dark. And then my partner, he didn't hurt me that day – that night, fight with him but my mum stopped me...I was the one who was hitting my husband, and that's all.

Her evidence was that she and the defendant are husband and wife and have a child who is 5 months old. Further, that on the 3 December 2024 she was 30 weeks pregnant.

13. Prosecution counsel was granted leave under s 38 of *Evidence (National Uniform Legislation) Act 2011* (NT) (ENULA) to cross examine the complainant, where upon listening to the first emergency call at 00:07:22 - 00:08:28 agreed that it was her voice speaking, and that she had in fact spoken with the 000 people – though she thought it was a nurse.<sup>7</sup> Her evidence in chief was that at the time of the call Benedict Stephens was her partner, but that he had not been hitting her. That she had asked for the police 'because I was like, screaming, shouting. Because I was just, like really scared'.

14. That when she had said 'My partner always hurts me and threatens me', she had meant instead;

'... he never, like hurt me. I was just talking on the phone saying – because I got really mad. I was really stressed, too much stress on me, that's why I was talking on the phone, saying everything that night. I didn't get any hurt'.

15. Lornie Djana made a recorded statement on 13 June 2025<sup>8</sup> when she attended at the Alice Springs police station with her mother. She indicated in her statement that she was the individual talking 'jealousing' within the house and had been

'Talking bad words... I was talking in language my mum Sonia, tell for police to take him to Papunya so he can stay there. When she had sat outside, he had told her to stay calm, that she in anger she hit him in the chest and had bit him. He had hold of her and tried to calm me down and to sit down and to sit on the chair. That Sonya was trying to stop me, but she accidently scratched the defendant to the face'.

16. Ms Williams for the defendant cross examined Ms Djana, that what she had said in the emergency call was not true, and that she was stressing and worrying too much, and had wanted the police to come and to take him away<sup>9</sup>. She agreed with the defence's propositions that the Defendant had not hit or punched her, strangled or choked her, or dragged her on the floor. That she had not received a swollen nose and that what she had said on the 000 call wasn't true.

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<sup>6</sup> 31 July 2025 Transcript p. 6.3-10

<sup>7</sup> 27 August 2025 Transcript p. 13.1

<sup>8</sup> Exhibit P4.

<sup>9</sup> 31 July 2025 Transcript p 21.

17. In re-examination, when asked why her mother had made the calls that night, Ms Djana explained: ‘...like my mum she gets worried. She – she tells my partner to go and live with his family at Papunya, in town, but he doesn’t listen because my mother...she had to call the police and send him to the police’<sup>10</sup>.

#### **Evidence of Constable Callum Innis**

18. Constable Callum Innis of Southern Domestic Violence Investigations Unit gave evidence on oath. Leave was granted for the officer to read into evidence a copy of statutory declaration dated 3 December 2024<sup>11</sup>. Contemporaneous notes were recorded with the officer’s notebook<sup>12</sup>. The most relevant of the statutory declarations are set out as below.

[5] At 1253 hrs I was able to contact the complainant Sonia JUGADIA on her mobile phone. I have dealt with JUGADAI previously and upon hearing the voice at the other end of the known (sic) knew it was her I was speaking to. I asked JUGADAI to tell me what had happened, and she informed me that Benefict Stevens (STEVENS) had assaulted her daughter Lornie Djana (DJANA) out the front of their house. JUGADAI had told me that she had witnessed the assault and had intervened to stop STEVENS from harming DJANA further.

[6] I asked JUGADAI to put STEVENS (sic) on the phone and she told me that she would. The next voice I heard on the phone sounded as though it belonged to a young woman. Her voice was hushed and quavering and gave me the impression that the speaker who I now know to be DJANA was scared.

[7] I asked DJANA what injuries she had and she told me she had pain to her head and to her ear, she also told me that STEVENS had choked (sic) her in addition to hitting her. ... I asked DJANA if she received any injuries to her abdomen as I know her to be 25 weeks pregnant, she stated that she had no injuries to her stomach and that she was feeling pain but that was it.

[11] At 0305hrs I obtained an audio-visual statement from JUGADAI....

[12] In that statement JUGADAI told me of how she had observed STEVENS punch DJANA “hard” several times out the front of the above yard. JUGADIA then told me of how STEVENS utilised one hand to hold DJANA still and the other hand to choke her JUGADAI mimed a hand going around someone’s neck and squeezing with sufficient pressure to cause that person not to be able to speak properly.

[14] At 0322hrs I placed STEVENS behind his back and informed him that he was under arrest for Aggravated Assault and Choking, Strangulating or suffocating in a domestic relationship...George placed STEVENS in hand cuffs and together we conveyed him to out police vehicle. During this time STEVENS yelled abuse at his immediate family for “reporting him”.

[15] I then went and spoke with DJANA, at the time STEVENS was still yelling in the background and DJANA looked scared and unsure. I asked her what had happened and as she told me “nothing”. I immediately recognised her voice as matching that of the woman I spoke with on the phone earlier.

[16] I asked DJANA several questions and she continued to deny that anything happened as well looking towards where STEVENS was located in the back of the Police cage. I would

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<sup>10</sup>

<sup>11</sup> Exhibit P8.

<sup>12</sup> Exhibit P9.

describe DJANA'S demeanour as withdrawn and vacant. She had the same small voice she used on the phone only this time she denied everything she previously had told me eventually stating that she did not even remember the phone call. When I asked her about her pain she stated that she had "fallen over". When I asked her about how he choked her she state (sic) that she fell over.

19. The officer provided testimony of Sonia Djugadi at the time of the recorded statement at the river crossing. He observed that she appeared upset and distressed<sup>13</sup>. At the time of the conversation with Lornie Djana, the defendant was some 20 metres away in the police cage. She appeared to the officer to be 'hunched over, with her chin lowered and vacant'<sup>14</sup>.
20. The statutory declaration of Abel Sandy<sup>15</sup> was tendered as exhibit P14. Abel Sandy is an Aboriginal liaison officer from Papunya and a Luritja speaker since childhood, he was able to translate the recording of the body worn footage of the defendant yelling and speaking in the Luritja language while he was in the back of the police cage outside House 32 Haasts Bluff. The words were, 'come and tell this bloke I'm not going to hit you', 'your mother is telling lie stories tell the police straight way', 'please I never hit you come and tell them', 'you gotta tell police straight', 'why you been tell the police', 'why you reporting me', 'you report me but you gotta come visit me', 'I never hit you' and 'come and talk to the police, come and tell them'.
21. The police's next interaction with the complainant was on the 13 June 2025 when she declined to make a statement<sup>16</sup>. He spoke next with Lornie Djana and Sonia Jugadai at the Alice Springs police station where both wished to make a statement concerning the defendant. It was his recollection that it was the complainant who was spoken to first.
22. When the officer spoke with Sonia Jugadi, she advised that she wanted the charges dropped and that her first witness statement was 'too quick', and it was 'dark'. At the time of the commencement of the recording Ms Jugadai declined to make an oath or promise to tell the truth and as such the statement did not continue<sup>17</sup>.
23. Constable Innes gave evidence of his experience as a police officer working on domestic violence cases where victims request the charges be dropped. At transcript page 39.9<sup>18</sup> he stated, 'In my experience, your Honour, it is extremely common, particularly when you have particularly vulnerable witnesses or victims who are pregnant and have family responsibilities. Unfortunately, it is very common to see them wish to have the charges withdrawn, such that they can have more support at home to raise children and look after other responsibilities'.
24. The Crown then closed its case and that was the evidence for the prosecution.

#### **Evidence of Benedict Stephens Junior**

25. Benedict Stephens Junior gave evidence on oath at the hearing and was not required to do so given the presumption of his innocence. His evidence in chief was that he and Lornie Djana had earlier, on the day of 3 December 2024, been at the river with their nephews and nieces

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<sup>13</sup> 27 August 2025 Transcript p 36.7

<sup>14</sup> 27 August 2025 Transcript p 37.4

<sup>15</sup> Statutory declaration of Abel Sandy dated 29 May 2025.

<sup>16</sup> Para 3 of statutory declaration of Callum Innes dated 23 June 2025

<sup>17</sup> Para 7 of statutory declaration of Callum Innes dated 23 June 2025

<sup>18</sup> 27 August 2025

and Sonya Jugadi's grandchildren. Upon returning to their bedroom, they had showered, and his partner was very cranky as

... 'she wanted a feed. She started getting angry with me and family her mother and started yelling and swearing. I went outside for fresh air, and she started following me. I was outside when (she) started pulling hair, I hit her with a slap, that's all and try to settle her down on the chair'.

26. As to the reason why he had applied force with a slap, he explained that 'she had got really angry bit to my chest, hair pulled. An interpreted response was that "He tried to calm her down she didn't listen". The slap was to the right cheek, and she said 'she had no scratch marks. After she but hands on me and started biting on chest I had to push her down and chair, she got angry'.
27. His evidence on whether his mother-in-law was present outside was that she was 'by the branch and ringing police and worried about Lornie bad ways'. He knew Lornie was pregnant that night and 'didn't harm her bad ways'. His mother-in-law had 'walked up to me and pushing me and scratch(ed) me on nose' and 'had to settle me down for Lornie that's about it', 'her anger was because I wouldn't cook her a feed'.
28. In cross examination he stated they had been together for three and half years, married for two and a half, and had recently welcomed their first daughter. Concerning her pregnancy, he said that on 3 December 2024 she was 21 weeks pregnant, and in other evidence that Lornie was stronger; 'you know how pregnant women are, (they) have moods and a bit angry'.
29. To the question about Ms Djana's 'nagging' him by asking too many times, he replied, 'I wasn't angry, and I wanted to get a rest and sleep'. Though she had asked him 13 times. He agreed that when she was swearing at him, he had felt disrespected, though he disagreed about being "pissed off". He said he was a bit stressed as he had been looking after nephews and children at the river earlier that day.
30. Mr Pulsford put the prosecution's case to the defendant whose evidence was in fact that he had followed the complainant from the bedroom. 'I followed her outside' he admitted. While outside he disagreed that he had called her a "slut" in Lurritja, that he had an argument. His response was 'no' to having punched her three times to her face, her falling to the ground, and then dragged on the ground by the scruff of her shirt. His response was 'no' to having choked her, and that she was breathing to the proposition that 'she could not breathe'.
31. Concerning the actions of Sonia Jugadi, he did not agree that she had gotten involved as the Defendant was choking her daughter. His evidence was that she had called police as she was 'worried about new grandchildren as (he and) Lornie was fighting'. In re-examination he further explained that his mother-in-law did not want him around and thought that he was the problem, and to stay at Papunya for when baby (came) and to give Lornie Djana 'a time'.
32. The defence closed its case.

## Submissions

33. I remind myself that the prosecution has the onus of proof to prove the contested charges beyond a reasonable doubt. The prosecution case relies primarily on the limited but consistent evidence on the contemporaneous emergency calls initiated by Sonia Jugadi. Where both Sonia Jugadi and Lornie Djana adopt that it is their voices on the initial call, despite various later description by the witness Jugadi, and outright denial by the complainant.
34. The prosecution further relies on the representations to Constable Innes whilst on the road to Haasts Bluff with both women, and also the body worn recorded statement of Sonia Djana at the river crossing prior to Benedict Stephen's arrest. It is said that the inconsistencies of evidence from the complainant can be explained by the nature of the domestic violence relationship and controlling behaviour.
35. In respect of the evidential burden, both witnesses of the alleged assault and alleged choking, strangling, or suffocation of Lornie Djana should be approached with caution and carefully examined, given both witnesses resiling from their initial complaints of domestic violence and representations made at Haasts on the evening of 3 December 2024. There are further considerations in respect to Sonia's impaired vision with a cataract in one eye. Regarding this, I give myself a warning under s 165(1)(c) of the ENULA.
36. As with any hearing, this is a case of evidence and facts, and its determination by a Judge. It is also a hearing dealing with a mother's concern for the welfare of her pregnant daughter, of a relationship between husband and wife, of a young mother's first pregnancy and subsequent birth of her daughter, and the added emotional distress and struggle of a young mother in the absence of her partner.
37. I provide myself with warnings under s 165(1)(d) of the ENULA that Lornie Djana may potentially be a person who may be criminally concerned in the events for assaulting Benedict Stephens, that she was violent toward him out of anger by pulling his hair and biting his chest prior to his actions of trying to calm her down.

## An understanding of Domestic Violence

38. Northern Territory Courts in line with *Warford v Frith*<sup>19</sup>, *Morluk v Firth*<sup>20</sup>, and *Mardinga v Williams*<sup>21</sup> have had a greater understanding of the nature of domestic violence. Legislative changes of the *Domestic and Family Violence Act 2007* (NT) have equipped this Court with concepts of 'coercive control' and 'determining of the person most in need of protection'. As well as a contemporary understanding of the cause and effects of domestic violence Coronial Inquests.

## Assessment of Credibility – Lornie Djana

39. A careful examination of the evidence concerning Lornie Djana indicates that the first 000 call had the ring of truth, sustained by the emotional tone of her disclosure and responses. Similarly,

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<sup>19</sup> [2017] NTSC 75

<sup>20</sup> [2017] NTSC 91

<sup>21</sup> [2025] NTSC 61

this is consistent with Constable Innis' assessment of his initial conversation with her during transit; that her voice was hushed and quavering.

**LD:** Excuse I got hit and I got problem my arm, my finger a bit swollen. And my face. finger and face swollen up. I'm 25 weeks pregnant. And my partner doesn't care he always hurt me. He always threatens me. He doesn't care. My partner doesn't care he always hurt me... Call the police to come right now. I'm Lornie'.

40. I do consider that her behaviour and response to Police on 3 December 2024 are explicable for victims of domestic violence. In the presence of Police at House 32 Haasts Bluff, she looked scared and unsure. While explaining to the Police that "nothing" happened that evening she appeared withdrawn and vacant. One cannot ignore the further pressure from the presence of the Defendant, and his communications with her in the Luritja language.
41. The Defendant's statements, as translated by the Aboriginal liaison officer, in one context can be interpreted as an expression of innocence – 'please I never hit you come and tell them', 'you gotta tell police straight' and 'come and talk to the police, come and tell them'. However, in light of the circumstances of his arrest, including his detainment in the police vehicle, and what Constable Innis describes as the defendant 'yelling abuse at his family for reporting him', I do find that the Defendant's statements were a manifestation of what is known as 'coercive control'.

#### **Does *Morluk v Firth* apply?**

42. Counsel for the defendant in closing submissions submitted that the authority of *Morluk v Frith*<sup>22</sup> did not apply and was distinguishable from the present hearing. In that decision the complainant had made a contemporaneous statutory declaration to police and subsequent repudiation. Whereas in the present hearing, Lornie Djana had made contemporaneous representations *and* a statutory declaration on 13 July 2025 denying any assault. The authority is distinguishable in that the defendant gave evidence during the proceedings.
43. It is necessary to review the evidence with reference to subsequent authorities regarding *Morluk*; namely the interpretation and application of its principles. In *Morluk*, the complainant made a statement to police naming her partner as the assailant on the date of the assault. Due to the significant injuries sustained, she was taken to hospital. A witness to the assault later made a separate report to the police. Police thus arrested the assailant at a bush camp with the complainant present who wanted to withdraw her statement and had sought to do so the previous day.
44. In *Warford v Frith*, the Court sought to explain inconsistencies in evidence and past statements. The Court considered police observations of the complainant's distress and complaints on that morning as having the ring of truth and reality and concluded that the evidence did not resile from the truth.<sup>23</sup>
45. The recent decision, *Mardinga v Williams*<sup>24</sup>, dealt with a female complainant who waived down police and reported an assault. She accepted to an electronically recorded statement. On the

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<sup>22</sup> *Morluk v Firth* [2017] NTSC 91

<sup>23</sup> *Warford v Frith* [2017] NTSC 75 at [61].

<sup>24</sup> [2025] NTSC 6 at [6] and [7]

day of the hearing, however, she partially retracted her earlier statement. Following a s 38 of the ENULA by the prosecutor, the complainant stated that the police forced her to tell the story. She agreed that she did not want the charges to go to court, or the appellant not to be in trouble; that she was scared to tell her story and that she had lied to police in her statement.

46. The appellant submitted that the competing versions of the event should give rise to reasonable doubt. Riley AJ in *Mardinga* following *Morluk* stated,

...it is not uncommon for a victim in proceedings involving an assault in a domestic violence context to recant his or her complaint to police or evidence given in court which would inculpate an alleged offender. It does not follow that in those circumstances a reasonable doubt will necessarily arise although that may be the finding. In determining whether such a doubt arises it is not resolved by a mechanical comparison of the competing accounts by the victim and concluding that a reasonable must arise because of the inconsistency.<sup>25</sup>

47. It is my view that the line of authorities that arise out of *Morluk*, are of similar application and relevant to these proceedings in its determination. I consider that it is necessary to assess the evidence of Lornie Djana in the context of domestic violence.

48. The following relay relevant features of the facts in light of the parties' relationship:

- i. That the parties were in a relationship for three-and-a-half years, two-and-a-half of which were spent as husband and wife.
- ii. That at the time of the offence, Lornie Djana was 8 months pregnant with her daughter.
- iii. That there was concern about her pregnancy and that she wanted Benedict Stephens to live with his family at Papunya.
- iv. That Lornie Djana's complaint to the 000 operator was immediately contemporaneous with the assault and choking.
- v. That both the 000 call and the initial representation to Constable Callum Innes had a ring of truth to them.
- vi. That constable Innes described the complainant as sounding 'hushed and quavering' on the 000 call, and that she gave the impression of being scared.
- vii. That when outside House 32, while handcuffing the defendant and securing him in the police cage, Lornie Djana seemed scared and unsure when saying nothing happened. Constable Innes also stated that she seemed withdrawn and vacant and spoke in a quiet voice.
- viii. That at the time of the initial retraction by Lornie Djana, the defendant was engaging in controlling-like behaviours in the Lurritja language.
- ix. That Benedict Stephens Junior remained in custody following his arrest.

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<sup>25</sup> Ibid at [10].

- x. That on the 13 June 2025 when she made her recorded statutory declaration, Lornie Djana had already given birth to her daughter and was living at Hidden Valley Camp in Alice Springs.
  - xi. That she had gone with her mother, Sonia Jugadi, to Alice Springs police station to 'drop the charges'.
  - xii. That during her testimony on 31 July 2025, she indicated that she had been missing her husband and that she still loved him. That she would like him to be home with her and the baby. And that without him 'It's getting hard, it's really hard', and that 'when he was home, he would clean the room'.
49. After careful examination and scrutiny of the totality of the evidence give by Lornie Djana, there is a logical basis to consider the context and reasons of her retraction of evidence from the initial complaint. She is a young Aboriginal woman and wife to the defendant in a domestic violence context. Her life is further complicated with her struggles in raising her daughter without the support of her husband due to his continued absence. I do not consider that it would be illogical or erroneous, after careful consideration and assessment of the totality of her evidence, to reject portions of her evidence vis-à-vis: the initial denial that 'nothing happened; the statutory declaration of 13 June 2025; and the court testimony on 31 July 2025 where it conflicts with her immediate complaint of assault and choking by Benedict Stephens.
50. After further scrutiny of her evidence, and in providing myself a warning under s 165 that the claimant may be criminally involved in the offence, I discount, for the above reasons, her inconsistencies and do hold that they are each explicable for a domestic violence survivor.

#### **Assessment of the credibility of Sonia Jugadi**

51. Similarly, I have considered each of the inconsistencies in Ms Jugadi's evidence at the Alice Springs police station with her daughter to 'drop the charges', and for providing a medical document on behalf of the defendant.<sup>26</sup> I consider it an important piece of evidence that Susan Jugadi, an Aboriginal woman of her age and faith, did not want to make an oath or affirmation for the statutory declaration about 'not telling the truth'. That rather than diminishing her credibility in respect to her initial complaints, it provides credence to her initial complaints. It was part of her testimony that 'Benedict didn't hit really hard. Benedict just only slaps his face, that's all'<sup>27</sup>.
52. I am decided that her two 000 calls, the call to constable Innes, her driving to the river crossing to meet police to provide a recorded statement, are highly persuasive evidence. I am decided that her tone and sense of urgency to the call operator and constable Innes and the calls' contemporaneity to the assault and choking, to be highly persuasive evidence. Equally, I am decided that her recorded statement by the riverside, a spontaneous and demonstrative action showing the manner of the defendant's domestic violence, to be reliable evidence. That the statements:

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<sup>26</sup> See 27 August 2025 Transcript p.39.7.

<sup>27</sup> 27 August 2025 Transcript p 9.7

- i. 'He was really angry and started to belt him', (demonstrates punch to fist)<sup>28</sup>;
- ii. 'I punched Benedict' (demonstrates touching to lips)<sup>29</sup>;
- iii. 'She pull her to the floor outside and her head pull her head, and face go like this and putta hand and I punch him and say "Stay away from Lornie"<sup>30</sup> (demonstrates a two hand lifting motion, with head on angle backwards with throat exposed and one hand splayed around throat and then a closed punching fist),

and the accompanied descriptive body language are powerfully illustrative and highly persuasive evidence of an assault and choking<sup>31</sup>.

53. In light of the above, I do not consider that it would be illogical or erroneous, after careful consideration and assessment of the totality of her evidence, to reject those portions of her court-based testimony on 27 August 2025 in the disavowing of her earlier calls and recorded conversation on 3 December 2024. She too gave evidence of her daughter's hardship following the defendant's incarceration, and the need for the baby to see her father – 'she wants to see his dad – the baby'<sup>32</sup>. She had attended the police station with her daughter to drop the charges with knowledge her granddaughter's birth and continued incarceration of Benedict Stephens.
54. After further scrutiny of the evidence, and direction under s. 165(1), I do not consider that her limitations of eyesight, due to the cataract in her right eye, detracts from the force and clarity of her observations on 3 December 2024, nor her oral and miming accounts.

#### **Assessment of the credibility of the evidence of Benedict Stephens Junior**

55. Benedict gave evidence on oath and was subject to cross examination. He was consistent that his wife initiated the violence on him outside of the house in pulling his hair and biting his chest. He maintained that his actions of slapping Lornie Djana and moving her downwards to the chair was done to 'settle her down' given her pregnant condition. As there exists differing accounts, between these, I am to direct myself as to a *Liberatto Direction* (1985) 159 CLR 507 and in framing that direction I have had regard to the decision of *De Silva v The Queen* (2019) 268 CLR 57 where it is put plainly:
- i. If you believe the accused's evidence, you must acquit;
  - ii. If you do not accept that evidence (account) but you consider it might be true, you must acquit; and
  - iii. If you do not believe the accused's evidence, you should put that evidence (account) to one side.
56. There exists certain implausibility of the Defendant's account that give rise to concerns as to his accuracy and credibility. The Defendant gave evidence that following the incident and the claimant's eventual calm, the family went inside, and nothing happened until the police arrived. This is however at odds with the telephone conversation between Constable Innes and Sonia

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<sup>28</sup> 01.41 – 01.46 seconds

<sup>29</sup> 01.59-.02.00 seconds

<sup>30</sup> 02.29 – 0.2.36

<sup>31</sup> *Wodidj v Rigby* [2023] NTSC 34.

<sup>32</sup> See 27 August 2025 Transcript p6.8.

Jugadi at [5],<sup>33</sup> or Constable Innes statement that 'I asked where the parties, and she stated that DJANA was inside the house with the door locked and STEVENS was outside'.

57. The Defendant was a poorer witness than Jugadi and Djana in the manner he provided his evidence and denials. His comment, as recorded in Constable Innes notebook entry in exhibit P9, was to 'tell police that he was attacked by 3 people'. I do not accept or consider it might be true that three persons, the nephew, victim and mother, would attack him for simply trying to settle down his wife into a chair after slapping her. A truer picture is shown in the second call, that the defendant was fighting with the nephew, a boy, and that Lornie Djana was looking at the door as the defendant remained outside.
58. The defendant in his evidence did not give an account of his conversation in language as was transcribed by Aboriginal Liaison Officer Sandy, and I do not accept or believe it might be true as consistent with innocence. I also do find it was coercive behaviour directed to the victim, Lornie Djana, and had an emotional effect with her denials.
59. I cannot accept the evidence of Benedict Stephens as credible or find that it might be credible or true. I therefore find that the prosecution has overcome the *Liberatto* direction.

#### **Finding of Facts**

60. On the finding of facts, I am satisfied that the prosecution has proven beyond a reasonable doubt the following:
  61. That the defendant and victim were in the bedroom of House 32 at Haasts Bluff on 3 December 2024 and had spent the day swimming with the children. That Lornie Djana was hungry and wanted the defendant to cook her a meal. That this led to an argument as she had asked too many times – a number no greater than 13. That Susan Jugadi was present at the house and did not observe this interaction in the bedroom.
  62. That Benedict Stephens became angry and followed the victim outside. That Susan Jugadi was outside as well and called police on her mobile phone. That there the Defendant lost his temper and punched Lornie Djana several times to the head causing pain, swelling, and for her to fall to the ground. That the Defendant, with two hands, lifted her to a standing position with Lornie Djana's head moving backwards exposing her throat. That the defendant placed one hand around her throat and squeezed so that she could not scream and did not consent. That Lornie Djana bit the defendant's chest in return and pulled his hair.
  63. I am satisfied, on the evidence and to the requisite standard of proof, that the prosecution has proved beyond reasonable doubt the guilt of Benedict Stephens Junior in respect to count 1 of an Assault on Lornie Djana and each circumstance of aggravation. That the prosecution has proved beyond a reasonable doubt the guilt of the defendant in respect of count 2 of choking of Lornie Djana, where she did not consent and Benedict Stephens was reckless to that circumstance.

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<sup>33</sup> 3 December 2024