

CITATION: *Police v Buckley* [2026] NTLC 2

PARTIES: *Police*

v

Damien Mark Buckley

TITLE OF COURT: LOCAL COURT

JURISDICTION: CRIMINAL

FILE NO(s): 22501504

DELIVERED ON: 16 February 2026

DELIVERED AT: Darwin

HEARING DATE(s): 24 October 2025, 27 & 28 January 2026

DECISION OF: Judge Fong Lim

CATCHWORDS:

CRIMINAL LAW - Trespass – Stalking – Continuity of purpose – “repeated instances” – Prior intimate relationship – Knowledge of the complainant’s mental fragility and vulnerabilities

Criminal Code Act 1983 (NT) ss 189 (1), 189(1A)

Theisinger v Rigby [2018] NTCA 8
Wild v O’Neill [2012] NTSC 39
Thomas v Campbell [2003] VSC 460
R v Hoang [2007] VSCA 117

REPRESENTATION:

Counsel:

Police: Ms Sibley

Defendant: Ms Wild

Solicitors:

Police: Director of Public
Prosecutions

Defendant: Maleys and Associates

Decision category classification: C

Decision ID number: [2026] NTLC 2

Number of paragraphs: 62

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

No. 22501504

BETWEEN:

Police

AND:

Damien Mark Buckley

Defendant

REASONS FOR DECISION
(Delivered 16 February 2026)

JUDGE FONG LIM

1. The Defendant is charged with three offences where AB is the alleged victim:
 - I. Trespass;
 - II. Criminal damage; and
 - III. Stalking.
2. It is alleged the Defendant acted unlawfully between October and November 2024 by: sending unwanted text messages to AB; attending her house uninvited on 13 November 2024 and leaving her an inappropriate gift; and by attending her house uninvited in the early morning of 16 November 2024 where the Defendant moved suspiciously underneath the house, shifted and covered her security cameras, and watched her from the stairs without her knowledge.
3. The Defendant and AB had a brief, friendly, and then intimate relationship that started on social media. They were neighbours living three houses away from each other. Their communications via Facebook and text messages reveal a relationship which featured the sharing of deep personal issues, and seemed at first, to be a mutually supportive relationship. There were many messages sent back and forth of a friendly nature containing details of both their personal lives. Many of these communications were late at night and early in the morning. In about September 2024 the Defendant expressed his love for AB who told him she just wanted to stay friends—after that, the relationship soured.

The Evidence

4. The court was provided with: recordings and paper copies of the texts and Facebook messages between the two parties; CCTV footage from the security cameras at AB house from 16 November 2024; and the Body worn camera footage from Officer Barrie who attended AB's home that morning following reports of an alleged trespass at the property. The court also heard oral evidence from AB, her father, Officer Barrie, and the Defendant.
5. AB's evidence was that once the Defendant had expressed to her that he was falling in love with her, she tried to get some distance between them in a way that would not cause any animosity as he lived three doors down from her. She wanted to keep things friendly but not romantic or intimate. She attested that he didn't accept her decision to step back from the relationship and continued to message her until early October when she attended his place to confirm that she did not want to continue a relationship.
6. Her evidence was that on 22 September 2024 after a night of drinking and socialising, things started to deteriorate. She states that the Defendant left after they had an argument but then proceeded to call and message her several times. She did not respond to any of the messages until later that night when her other friend had left. She says her motivation to finally respond to him was to stop him from getting agitated. At this stage she had become suspicious that he had somehow been listening into her private conversations because he had referred to some social plans she had made over the phone when he wasn't present.
7. It was around about that time, 23 September 2024, that AB unfriended the Defendant on Facebook because he was making her feel uncomfortable. When he challenged her about it, she denied having unfriended him because she was worried about his possible response.¹
8. On 29 September 2024, he messaged her about a "very illuminating" conversation he had had with someone. AB was not sure what that meant and challenged him as to what he was talking about. She said she felt apprehensive about what he was referring to and then became angry when he began asking questions about her social life—referring to matters she had only discussed with friends over the phone. On that same day he sent her a message with a love song attached.
9. From then on, the Defendant's messages became angry in tone accusing her of lying and not being honest about seeing another man. She felt harassed and she ended a message with "just stop please".
10. There were a series of subsequent messages (Facebook and texts) insisting she come to his place to discuss things face-to-face but not giving her any specifics as to what he wanted to discuss. AB refused to agree to a face-to-face meeting because he would not specify what he wanted to talk about. The Defendant then sent a message ending "hope you don't find out the hard way". This made AB uncomfortable as to what the Defendant was intended or to what he was referring.

¹ AB's evidence in chief page 21 of the transcript

11. The Defendant's explanation for these words was that this was a reference to the possibility of her self-harming. AB was becoming more and more concerned about the Defendant's constant messaging and insistence for a face-to-face discussion.
12. AB says she finally attended the Defendant's place on the 4 October 2024 and tried to make it clear to the Defendant that she wanted him to stop. She accused him of putting devices on her phone or in her house because he knew things that were only discussed in private conversations.
13. Soon after, they stopped communicating for a while.
14. The next communication occurred on 15 October 2024, when the Defendant left her a lengthy voice message expressing his disappointment that she had not responded to him. His voice message assured her that he was not like her ex-partners and that he had never raised his voice to her or hit her, then finished with a declaration that he still cared about her and hoped that she would come over for a chat sometime. This message was sent after she had told him to "just stop" on 30 September 2024.
15. AB attested it was about then that the Defendants behaviour spiralled, and he became agitated, making her fearful.²
16. After four to six weeks of no contact, the Defendant left a bottle of wine and a mug on AB's doorstep. The mug had a cartoon depicting a man with a woman bent over. Her underpants were decorated with a love heart, and his hands were on her bottom, with the message "I adore you and every part of you especially your bum I love your bum".³ The gift was left with no note or even a text from the Defendant to let her know about the gift. AB found this gift distressing and inappropriate, especially since it was her child that first discovered it when they came home that day.
17. The final incident, which became the catalyst for these proceedings, was the Defendant's attendance at AB house early in the morning on 16 November 2024. He was sneaking around under the house, watching her from the top of the stairs without her knowledge and covering her security cameras. The person under the house is captured on the CCTV looking up to the camera without a face covering⁴. AB identified that person as the Defendant.

Defendant's Evidence

18. In his Evidence-in-chief, the Defendant described his relationship with AB as one that started on Tinder, developed into a friendship, and later became intimate. He acknowledged they had many intense conversations about personal things and identified the many stressors in AB life. He confirmed she had difficulty sleeping and was emotionally up and down, particularly when she had been drinking.

² Page 38 of transcript

³ Exh P

⁴ Exhibit P16

19. Mr Buckley was annoyed that she had rejected him after he asked her for a date and told her of his deepening feelings for her. He was also annoyed that she had apparently lied to him about seeing other men and had started blaming him for all of the things that were going wrong in her life.
20. He justified all of his attempts to continue contact with AB as attempts to maintain a friendly relationship so that it did not deteriorate to a point where they could not be civil to each other.
21. When cross-examined about his actions and motivation the Defendant became defensive and combative. He would not concede that he had fallen in love with AB even though it is stated in his texts. He would not accept that his texts showed he was jealous, expecting an explanation as to why she had not been honest with him about seeing other people.
22. The Defendant explained that his continual attempts to contact AB after 22 September 2024 was out of concern for her. He understood she was a person with a lot of stressors in her life, and she had, that night indicated, she might self-harm. When he left her place, she was contacting another friend to bring some alcohol over, and he didn't think she should do that. After several unanswered texts he decided to go back to her place and check on her. He discovered she had a visitor and was drinking on the veranda, so he went back home without making it known he was there.
23. The Defendant description of AB's visit to his place on the 4 October 2024 was that she brought her child along and settled them in front of the TV, he then offered AB a drink. The conversation quickly turned to her berating him about things which were not his fault. He says he allowed her to get it out of her system, and she left after about an hour and a half.
24. The gift of the wine and mug was explained by the Defendant as a gift he had bought for her in September 2024 when he was going to ask her on a date. He did not give it to her then because she had told him how she felt.
25. His explanation to the police of the gift,⁵ was that every time he walked past it, he felt it was like pressing a bruise, so he decided to give it to her to get it out of his house. In his oral evidence he said he didn't throw the wine away because it was an expensive bottle of wine and the mug was a joke.
26. The cryptic message—"very illuminating"—was explained by the Defendant as his response to a conversation he had had with a friend at a service station. He had heard from that friend that *another* friend "was supposed to be going out on a date with a blond girl on my street". From that the Defendant formed the view that it was AB this person was talking about, and proof that she had been lying to him about going on dates. His evidence is not that this person knew it was AB, but that he concluded it was her.
27. The Defendant's message to AB about "finding out the hard way" is explained by him as a message of concern as he was worried about her self-harming.

⁵ Exhibit P5 Body Worn Video of Officer Barrie

28. His explanation for sending her a long message and love song on the 15 October 2024 was that even though she had been ignoring him he wanted to keep her friendship.

Identification of the Defendant on the CCTV Footage

29. The identification of Mr Buckley is pivotal. If it is him, he was clearly not there out of concern for AB, as he was sneaking around, moving and covering cameras, and at one stage had his face covered.
30. AB was adamant that it was the defendant under her house that night. She recognised him and pointed out that he was holding his right arm in a certain way because of a recent operation. Of course, her identification must be viewed in light of the fact that she believed the Defendant was the person under her house and reviewed the footage with that in mind. She says even before she looked at the footage, she knew it was him because she had heard a voice she recognised as his before she called the police. Defence challenged why she had not mentioned recognising his voice in her two police statements. She could not explain why, however, it is clear from the CCTV footage that there is a voice which AB is responding to and that she was telling them she was calling the police.⁶
31. I have viewed the footage, and in that footage the person looks directly at the camera with his face uncovered⁷. I've also had the opportunity to observe the Defendant in court during the three days of the hearing. I am satisfied beyond a reasonable doubt it is the Defendant in the CCTV. Particularly that he has a slightly bulbous lower nose in the nostril area and small close-set eyes. His flat denial that it was not him (pointing out the person didn't even walk like him) is not accepted.
32. Having found the Defendant was there that night, I can find him guilty of the charge of Trespass. There was no evidence that he had been invited to attend AB's house and no evidence of any lawful reason to be there.
33. At the conclusion of the evidence, I dismissed the charge of criminal damage to AB's pool filter controller. I found that even if I was to be satisfied beyond a reasonable doubt that the defendant was the person shown in the CCTV creeping around underneath the house, covering cameras and watching AB's from the top of the stairs, I could not be satisfied that he either intentionally or recklessly damaged the property, as there was no evidence to support that finding.

Stalking

34. In relation to the charge of stalking, I must refer to s 189 of the Criminal Code Act 1983 (NT) (Criminal Code). The section, paraphrased for relevance, states that for the defendant to be guilty of stalking the following must be proved:

⁶ P13 CCTV showing AB on the veranda

⁷ P10 and P16 CCTV

- (1) That the defendant has engaged in conduct of repeated instances of or any combination of:
- (a)
 - (b) Telephoning, sending electronic messages to or otherwise contacting the victim
 - (c) Entering The victim's place of residence
 - (d) Interfering with victim's property
 - (e) Giving offensive material to the victim or leaving it where it will be found
 - (f)

With the intention of causing physical or mental harm to the victim or of arousing apprehension or fear in the victim for her safety... and... did actually cause that physical or mental harm or aroused apprehension or fear.

35. Pursuant to s 189(1A), the defendant can be found to have the requisite intent, if the offender knows, or in the particular circumstances a reasonable person would have been aware that engaging in such conduct would likely cause harm, apprehension or fear.
36. Relevant authorities that considered the operation of s 189 are decisions from the Court of Criminal Appeal in the matter of *Theisinger v Rigby* [2018] NTCA 8 and the Supreme Court in *Wild v O'Neill* [2012] NTSC 39.
37. In *Theisinger*, the Court found that for the offence of stalking described in s 189 of the Criminal Code to be proven, there had to be a 'minimum of two incidents before they (could) be characterised as repeated instances'.⁸ In that matter, the defendant had attended the complainant's place of work on several occasions and yelled abuse at her. Finally, on the last occasion, he confronted her at Woolworths and verbally abused her. The Court found those actions constituted stalking.
38. In the matter of *Wild v Oneill*, the Court was focused on whether the defendant following and surveilling the complainant had to occur on different occasions, rather than one instance of continuous behaviour, to constitute 'repeated instances'. Their Honours found that there had to be a sufficient lapse in time, or a sufficient lapse or interruption in the act to constitute a separate occasion.
39. The present case is dissimilar to both *Theisinger* and *Wild*.
40. The alleged stalking in the present matter is a combination of persistent texts, the leaving of an inappropriate gift, the attendance on AB's property without invitation, of sneaking about under her house, and of moving and covering her security cameras. Three different types of

⁸ At [15]

conduct, on three separate occasions, which in combination could constitute stalking if there is evidence that the Defendant acted with the relevant intent.

41. I was also referred to the comments of Justice Nettle in *Thomas v Campbell*⁹, where his Honour expressed that, even when constituted by two or more incidences of different behaviour, a charge of stalking ought not to be made out unless there exists a 'continuity of purpose'. Nettle J was not satisfied that the prosecution had called evidence to establish the continuity of purpose.
42. In the present case I must be satisfied, pursuant to ss 189(1) and (1A) of the Criminal Code, that the Defendant either intended to 'cause physical or mental harm to the victim or to arouse apprehension or fear in the victim for his or her own safety ...and the course of conduct actually had that result'; or
43. That the Defendant 'kn(ew), or in the particular circumstances a reasonable person would have been aware, that engaging in a course of conduct of that kind would be likely to cause such harm or arouse such apprehension or fear'.
44. In *R v Hoang* [2007] VSCA 117 at 103, it was discussed that the words

"In all the particular circumstances ought to have understood" import an objective element into the specific intent required for the offence where the course of conduct did cause mental harm or arouse apprehension or fear in the victim. In these circumstances, the required state of mind is not the actual state of mind of the offender, but what "that offender" in those circumstances "ought to have understood.
45. It is obvious that AB has suffered distress and apprehension from the conduct of the Defendant. Her perception of his conduct was that he would not leave her alone and instead became more and more aggressive. She was worried about what he might do and was so worried she laid a complaint against him.
46. Of course, the Defendant denied his presence at the property on 16 November 2024 and denied that any of his other actions were intended to cause harm.
47. Having found the Defendant lied about the events occurring 16 November the balance of his evidence must be consider in light of this lie.
48. His explanation of why he chose to leave the wine and the mug on her doorstep—that it was "like a bruise (he) kept bumping", leads me to infer it hurt him to continue seeing those items at his place. He had not gotten over the ending of his relationship with AB. His explanation that it was an expensive bottle of wine he did not want to throw away, and that she may as well have the wine is not consistent with his protestations that he only wanted the best for her. If he was worried about her alcohol intake, why would he leave alcohol for her to consume. Even if the mug was a reference to happier times with AB, given their relationship had ceased, the gift was inappropriate. The fact that the Defendant did not leave a note

⁹ [2003] VSC 460

suggests he wanted to leave her guessing who had left it for her and thus make her apprehensive.

49. The Defendant's trespass under the house could have had no other purpose than to cause distress and fear. Even if she had not become aware of his presence under the house, the fact that her security cameras had been moved and covered would have caused apprehension upon discovery. In any event, viewing the footage clearly caused her distress, resulting in her shaking and crying. The footage also showed her describing to the person on the phone that she was shaking and scared when she went downstairs to investigate.
50. Defence submit that AB could not have been fearful or apprehensive because she ran down to the defendant's house to confront him about it.
51. AB's oral evidence was that she had heard a voice at the time which she recognised to be that of the Defendant, she did not mention that voice in her statements but there was clearly a voice recorded on the CCTV. She says upon recognising the defendant's voice, coupled with the unwanted messages and the unwanted gift from the Defendant, she wanted to confront him.
52. My observation of AB is that she is a person who wants to show that she is strong in the face of adversity. She demonstrated that by giving evidence in court, in person, despite being offered the opportunity to give evidence over AVL. She further demonstrated her resolve by turning up to court to observe the Defendant's evidence even though she found that distressing.
53. The resolve to show resilience does not discount any fear she may have had about the Defendant's actions. I observed her in court and noticed she was at times very shaky, unable to hold a cup of water still while giving evidence, and that she broke down after viewing the footage in Court. The Defendant's behaviour has clearly caused her distress and continues to do so.
54. The fact that she ran down to his house to confront him does not mean she was not fearful of what he could do in the future, more that she wanted to show him that she was strong and would not be covered by his actions. It must also be remembered she was very drunk at the time. That is evident in the Body worn video footage from Officer Barrie. Her intoxication may have given her bravado.
55. While the Defendant denies he intended to cause her fear by his actions, I do not accept this. The Defendant sent angry and jealous text messages and continued doing so even after AB tried to distance herself from him. He left an inappropriate gift and finally trespassed on her property and moved her security camera all the while knowing of AB's mental fragility and vulnerabilities. I find that he would have been aware that his actions would cause her distress and apprehension.
56. Even if I accept the Defendant did not intend to cause her fear, he was at pains to describe AB's personal stressors and her mental health issues including thoughts of self-harm as well as her overuse of alcohol. Any reasonable person who has that knowledge should have been

aware that his unwanted texts, gifts and presence at her property would have at least caused her apprehension or possibly affected her mental well-being.

57. The Defendant was aware that AB had been in negative relationships with her ex-partners and kept saying he was not like them yet continued to give her unwanted attention. The most serious of his actions was the attendance on 16 November—there can be no other reasonable explanation for his behaviour than to, in the least, cause her fear.
58. I find I am satisfied beyond a reasonable doubt that the Defendant was present at AB's house on 16 November 2024. I do not accept him as a credible witness and find he was telling untruths to the Court and the police regarding his attendance that night.
59. I am satisfied that his actions constitute stalking as defined by s 189 of the Criminal Code.
60. I am satisfied beyond a reasonable doubt his actions in October and November 2024 were the actions of a jealous jilted lover who would not accept the ending of the relationship and, knowing of AB's vulnerabilities particularly her mental fragility, set out to cause her distress and apprehension. I am also satisfied that AB was fearful and apprehensive about what actions the Defendant intended and whether he intended to cause her harm.
61. I am satisfied beyond a reasonable doubt that each and every element of the offence of stalking has been proven.
62. The Defendant is found guilty of stalking in contravention of s 189 of the Criminal Code.