

THE QUEENSLAND LAWYER

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ARTICLE

The use of psychiatric issues in sentencing – *Dr Ronald G Kilner*

Simply raising a psychiatric issue before a sentencing court does not automatically mean that a defendant will receive mitigation in sentence. This article examines in what circumstances psychiatric issues may be relevant in the sentencing process. It concludes that there are several instances when psychiatric issues may be relevant, but discusses in some detail the five most common instances. These are shortly stated as moral culpability; type of sentence imposed; relevance of general deterrence when psychiatric issues are present; importance of specific deterrence when psychiatric issues are present; and increased burden of a sentence on a defendant because of psychiatric issues. The article also discusses how those issues may legitimately be used to mitigate a sentence that otherwise would have been imposed. It also examines briefly the evidentiary issues raised by the use of psychiatric reports in sentencing. 295

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