



Summary of Judgment

DIRECTOR OF PUBLIC PROSECUTIONS v WATTON

[2019] VSCA 10

7 February 2019

The Court of Appeal (Justice Whelan, Justice Beach and Justice Hargrave) today allowed an appeal by the Director of Public Prosecutions against a sentence of five years' imprisonment, with a non-parole period of two years and six months, imposed by the County Court on two charges of sexual penetration of a child, two charges of committing an indecent act with a child and one charge of producing child pornography.

The Court found that the sentence imposed (as part of the total effective sentence) on the charge of producing child pornography was manifestly inadequate. The Court resentenced the respondent to a total effective sentence of seven years, with a non-parole period of four years and six months.

The offending occurred when the respondent was aged between 17 and 30. The physical offences involved three boys aged between 13 and 16. The pornography charge involved the filming of 15 boys of varying ages.

The respondent pleaded guilty at an early stage. There were significant matters in mitigation, including that for some years prior to being charged the respondent had led a productive offence-free life. Nevertheless, the Court found that the circumstances of the pornography charge meant that the sentence imposed by the Judge on that charge was manifestly inadequate. Resentencing the respondent (who at the time of sentencing was almost 40 years of age) in accordance with principle required a total effective sentence of seven years' imprisonment, with a non-parole period of four years and six months.

NOTE: This summary is necessarily incomplete. It is not intended as a substitute for the Court's reasons or to be used in any later consideration of the Court's reasons. The only authoritative pronouncement of the Court's reasons and conclusions is that contained in the published reasons for judgment.