



Summary of Judgment

DIRECTOR OF PUBLIC PROSECUTIONS v SHANE HODGSON

[2019] VSCA 49

13 March 2019

The Court of Appeal (Justice Kaye, Justice Niall and Justice Weinberg) today allowed an appeal by the Director of Public Prosecutions ('DPP') against a sentence imposed for armed robbery committed in August 2016.

Shane Hodgson, who is aged 24, pleaded guilty in February 2018 to armed robbery. Mr Hodgson, along with two co-offenders, committed the armed robbery on Ferntree Gully Bowling Club, using a shotgun and a machete. The maximum penalty at the time for the offence committed was 25 years' imprisonment. Mr Hodgson was sentenced to 5 years and 5 months' imprisonment with a non-parole period of 3 years and 4 months.

The DPP contended that the sentence was manifestly inadequate in light of the seriousness of the offence, Mr Hodgson's history of violent offending, the lateness of the plea and the fact that he was on youth parole at the time of the offending.

The Court of Appeal agreed that the sentence was manifestly inadequate. The armed robbery was planned and disguises and weapons, being a modified shotgun and a machete, were used to instil terror in the patrons and employees. Having regard to all of the circumstances, including the factors in mitigation such as Mr Hodgson's youth, disadvantaged background and mental illness, the sentence imposed was held to be wholly outside the permissible range of sentences. The Court of Appeal reiterated that the protection of the community is an important factor in sentencing.

The Court of Appeal resentenced Mr Hodgson to 7 years and 6 months' imprisonment with a non-parole period of 5 years and 6 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.