



Summary of Judgment

SEAN CHRISTIAN PRICE v THE QUEEN [NO 2]

[2019] VSCA 44

12 March 2019

The Court of Appeal today allowed the appeal of Sean Christian Price against the sentence imposed on him for the offence of breaching a serious sex offender supervision order.

The supervision order was made on 4 May 2012. The appellant breached that order by the offence of rape, committed on 19 March 2015. He pleaded guilty to that offence and other offences, and on 18 March 2016 was sentenced by a judge of the Trial Division of this Court to imprisonment for life, with a non-parole period of 38 years.

On 2 November 2017, a judge of the County Court imposed a sentence of four years and 11 months' imprisonment on the appellant for the offence of breaching the supervision order. A breach offence carries a maximum penalty of 5 years' imprisonment. The sentencing judge fixed a new global non-parole period of 41 years' imprisonment.

The appellant sought leave to appeal against the sentence imposed on the breach offence. The Court of Appeal found, upon analysis of the reasons of the judge of the County Court, that the sentence imposed for the breach offence took into account aspects of the rape offence for which the appellant had already been sentenced. Notwithstanding the egregious nature of the appellant's crimes, the sentence for the breach offence ought to reflect only the separate and distinct criminality constituted by the disobedience of a court order.

For those reasons the Court of Appeal quashed the sentence below, re-sentenced the appellant on the breach offence to a period of 3 years' imprisonment, and fixed a new global non-parole period of 40 years. The Court concluded:

We appreciate that this outcome makes little practical difference to the overall sentence, but the re-enforcement of sentencing principles, especially those concerning double punishment, is important.

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.