



Summary of Judgment

Director of Public Prosecutions v John Spencer White [2020] VSCA 37

4 March 2020

The Court of Appeal (President Maxwell, Justice Beach and Justice Weinberg) today allowed an appeal by the Director of Public Prosecutions against the sentence imposed on John Spencer White in respect of a charge of unlawful and dangerous act manslaughter, to which he pleaded guilty. Mr White was sentenced, in the Trial Division, to a total effective term of 6 years and 6 months' imprisonment, with a non-parole period of 3 years and 6 months. The appeal was brought on the ground that the sentence imposed was manifestly inadequate. The Court of Appeal has increased that sentence to a term of 9 years' imprisonment with a non-parole period of 6 years.

The deceased, John Christianos, had been an employee of Mr White since 1999. In the months leading up to the offence, the pair's relationship had been particularly strained. Mr White believed that he had cause to fear the deceased, and had unlawfully obtained a firearm in the lead up to the offence. On the night of 11 June 2001, Mr White and the deceased had been drinking together when they became involved in a heated argument. Mr White claimed that the deceased had 'come at him' with a knife. He then fired the two shots to the body, killing the deceased.

Mr White's conduct after the offence included numerous elaborate acts, and lies told, in order to dispose of the deceased's body and focus the investigation elsewhere. He hid and abandoned the deceased's body at a storage unit within a self-storage facility, where it remained, undetected, for some 17 years. After the deceased had been reported missing in 2001, Mr White made a number of false statements to police as to his last interactions with the deceased.

The Court accepted the Director's submission that there were aggravating features that were relevant to the objective gravity of the offending, and other sentencing considerations. Namely, this was the post-offence conduct that included the concealment of the deceased's body and the lies told to police. While the Court acknowledged certain factors in mitigation, including Mr White's guilty plea, his prior good character, prospects of rehabilitation, and the particular burden that imprisonment would have on him, the Court held that the 'objective gravity of this offending called for a stern response, and strong denunciation.'

During the course of oral argument, counsel for the respondent contended that the test for manifest inadequacy had been substantively reformulated by the decision of the High Court in

HT v The Queen.¹ The Court rejected that submission, noting in its reasons that there was nothing in *HT* that indicated that the High Court had sought radically to change the current test, on an appeal by the Director based on manifest inadequacy, as stated by this Court in *Director of Public Prosecutions v Karazisis*,² and the High Court in *Wong v The Queen*³ and *R v Pham*.⁴

Accordingly, the Court of Appeal re-sentenced Mr White as indicated above.

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.

¹ (2019) 93 ALJR 1307 (*HT*).

² (2010) 31 VR 634.

³ (2001) 207 CLR 584.

⁴ (2015) 256 CLR 550.