



Summary of Judgment

ANTHONY JOHN SMITH v THE QUEEN

[2020] VSCA 159

17 June 2020

The Court of Appeal (Maxwell P, Kyrou and Weinberg JJA) today refused Anthony John Smith leave to appeal against sentence on a charge of manslaughter, constituted by an unlawful and dangerous act.

The applicant killed Karen Rae by strangling her with his hands during the course of consensual sexual activity. He then buried Ms Rae in secret and concealed the whereabouts of her body for 19 months. The applicant was sentenced to 13 years' imprisonment with a non-parole period of 10 years.

The Court found that the sentence of 13 years' imprisonment, although stern, was within the range reasonably open to the sentencing judge in the circumstances of the case.

The Court said that this was very grave offending and that the trial judge was justified in characterising the applicant's offending as a 'very serious example of the crime of manslaughter'.

There was uncontested evidence before the trial judge that the applicant had expressed 'disrespectful, contemptuous and misogynistic views and opinions' about women. In his Honour's view, the circumstances of Ms Rae's death demonstrated what language of that kind can lead to:

It dehumanises women, blames them for male violence, normalises the abuse of male power and contributes to the creation of circumstances in which a woman may be violently harmed or killed by a man, as occurred in this case.

Of central importance to the sentencing task, the Court of Appeal said, was his Honour's uncontested finding that the applicant acted upon those views and opinions in killing Ms Rae in the particular way that he did.

The Court said that:

Male violence against women is a scourge of our society. The rate of death and serious injury suffered by women at the hands of their partners or former partners is deeply shocking. Those who engage, or contemplate engaging, in such violence – in whatever context – should be in no doubt that offending of this kind will attract very heavy sentences. By this means, sentencing courts express on behalf of the community the strongest denunciation of such abhorrent conduct.

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.