



Summary of Judgment

Akon Guode v The Queen [2020] VSCA 257

30 September 2020

The Court of Appeal (Ferguson CJ, Priest and Beach JJA) has today allowed Akon Guode's appeal against sentence and resented her to a term of imprisonment of 18 years with a non-parole period of 14 years.

On 30 May 2017, Ms Guode was sentenced to a term of imprisonment of 26 years and six months, with a non-parole period of 20 years. The sentence followed upon her pleas of guilty to one charge of infanticide, two charges of murder and one charge of attempted murder. All four offences were committed when she drove a motor vehicle containing four of her children into a lake.

At the time Ms Guode committed the offences, she had a major depressive disorder consequent upon her giving birth to her youngest child and her life was in turmoil.

Moreover, as the sentencing judge observed, Ms Guode had had an extraordinarily difficult life, having watched her husband being murdered in South Sudan before she herself was raped until she was unconscious.

The Court of Appeal accepted that objectively Ms Guode's offending was 'about as heinous a crime as one could reasonably contemplate'. The Court noted that that was not the end of the matter. Sentencing involves the proper synthesising of all of the circumstances of commission of the crime on the one hand with all of the circumstances of the offender, on the other hand. Viewed in isolation, the objective seriousness of the offending called for a very stern sentence of imprisonment. However, Ms Guode's mental functioning was impaired by her major depressive disorder to a point where her capacity to exercise appropriate judgment, and her capacity to think clearly and make calm and rational choices, and to appreciate the wrongfulness of her conduct at the time, was impaired. The Court of Appeal concluded that the sentence imposed by the sentencing judge was manifestly excessive when the entirety of Ms Guode's personal circumstances were synthesised with the objective gravity of her crimes. In all the circumstances, she was entitled to some mercy in the sentence imposed.

Thus, the Court of Appeal today allowed Ms Guode's appeal against sentence and resented her to a term of imprisonment of 18 years with a non-parole period of 14 years. In resentencing Ms Guode, the Court of Appeal took into account, among other things, updated medical evidence about Ms Guode's current circumstances of incarceration and mental condition and the delay in finalising the proceeding.

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.