



Summary of Judgment

***DPP v Raux; DPP v Talanoa* [2025] VSCA 258**

27 October 2025

The Court of Appeal (Priest, Osborn and Kaye JJA) today allowed an appeal brought by the Director of Public Prosecutions against sentences imposed on Damian Raux and Rawiri Talanoa for offences arising out of a home invasion carried out in the suburb of Clayton in April 2024. The first respondent (Raux) was aged 24 at the date of the sentence in issue and the second respondent (Talanoa) was aged 21.

The offending as a whole demonstrated a brazen, violent and outrageous disregard for the safety and security of others. The respondents entered the house after dark in the early hours of the morning by kicking in the door. Each respondent was masked, dressed in black and carried a steel rod, which was used to threaten and intimidate the occupants. The use of the rods occasioned genuine fear. The offenders moved through the house sequentially confronting each of the five victims. The invasion was utilised to facilitate the theft of valuable personal belongings and a motor vehicle. Although short in duration, the home invasion was pre-planned, coordinated and deliberately confrontational.

The sentencing judge found that it was open to her to impose a combination sentence as the requirements of ss 5(2H)(c)(ii) and (e) of the *Sentencing Act 1991* were satisfied in the case of the first and second respondent respectively. Accordingly, she sentenced the first respondent to 1 year and 7 months' imprisonment with a 2 year community correction order. In turn, she sentenced the second respondent to 1 year and 6 months' imprisonment with a 2 year community correction order.

On appeal, the Director contended that in each case the sentencing judge failed to give effect to provisions requiring the imposition of a custodial sentence (otherwise than in combination with a community correction order) and that the sentences imposed were manifestly inadequate.

The Court found that the personal circumstances of the respondents upon which the sentencing judge placed very significant weight did not justify the leniency of the sentences which were imposed given the gravity of the offending. Both respondents have some intellectual disability and history of childhood deprivation.

In respect of the first respondent, the Court found that whilst a statutory discretion existed to impose a combination sentence on account of the first respondent's impaired mental functioning pursuant to s 5(2H)(c)(ii), the sentence was nonetheless manifestly inadequate as it failed to give due weight to the need for denunciation, general deterrence and protection of the community. Notably, the first respondent had a prior history of violent offending and had breached a previous community correction order in the course of carrying out the instant offending.

In respect of the second respondent, the Court found that it was not open to the judge to impose a combination sentence as the factors relied on did not amount to substantial and compelling reasons that are exceptional and rare. The offending in issue is of a kind which is commonly perpetrated by young offenders including persons of low intelligence coming from circumstances of a deprived background. In any event, the sentence imposed was also manifestly inadequate as it similarly failed to give due weight to the need for denunciation, general deterrence and protection of the community and in circumstances where the second respondent also had a history of violent offending.

In resentencing the respondents to a custodial sentence (otherwise than in combination with a community correction order) the Court had regard to their youth in the context of the seriousness of the offending, their respective histories of childhood deprivation and their respective intellectual disabilities. The Court also took into account as a significant consideration the fact that both respondents have almost completed the custodial element of their sentence and that any increase in the term of prison sentence will involve an unusual burden.

In respect of the first respondent, the Court set aside the sentence of 1 year and 7 months' imprisonment with a 2 year community correction order and, in lieu thereof, resentenced the first respondent to a total effective sentence of 5 years and 6 months' imprisonment with a non-parole period of 3 years and 6 months.

In respect of the second respondent, the Court set aside the sentence of 1 year and 6 months' imprisonment with a 2 year community correction order and, in lieu thereof, resentenced the second respondent to a total effective sentence of 5 years and 2 months' imprisonment with a non-parole period of 3 years.

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.