

***Felicite v The Queen* [2011] VSCA 274 (9 September 2011) – Victorian Court of Appeal**

‘Denunciation’ – ‘Deterrence’ – ‘Just punishment’ – ‘Murder’ – ‘Physical violence and harm’ – ‘Relationship killings’
– ‘Sentencing’

Charge/s: Murder.

Appeal Type: Appeal against sentence.

Facts: The relationship between the male applicant and his wife, the victim, was characterised by the applicant’s ‘inability to control his anger’ (at [2]). The victim met another man and said she was ending her relationship with the applicant. A few days later, during the course of an argument, the applicant stabbed the victim repeatedly in the neck and throat. At least part of the attack was witnessed by their four year old son. He was sentenced to 19 years imprisonment, with a non-parole period of 16 years.

Issue/s: One of the grounds of appeal was that the sentence was manifestly excessive.

Decision and Reasoning: The appeal was dismissed. As per Redlich JA at [20]:

‘The taking of a domestic partner’s life undermines the foundations of personal relationships and family trust upon which our society rests. The sentence must reflect both the sanctity of human life and societies’ abhorrence of violence towards vulnerable and trusting partners who could legitimately have expected the offender to be the protector, not the perpetrator of violent abuse. An outburst of homicidal rage in such contexts is totally unacceptable. The community expectation is that the punishment assigned to such conduct must be condign so as to denounce in the strongest terms the abhorrent nature of domestic murder and to deter others from taking a similar course. Accordingly the principles of general deterrence, denunciation and just punishment will ordinarily be given primacy in sentencing for the murder of a partner in a domestic setting even where there are present, circumstances of provocation or great emotional stress’.

The sentence could not be said to be manifestly excessive. It appropriately reflected the considerable weight given to the principles of general deterrence and just punishment arising from the spousal relationship between the applicant and the victim (See [36]).