

***Freeman v The Queen* [2011] VSCA 349 (9 November 2011) – Victorian Court of Appeal**

‘Children’ – ‘Desire to inflict emotional harm on another parent’ – ‘Murder’ – ‘Physical violence and harm’ – ‘Relationship killings’ – ‘Sentencing’

Charge/s: Murder.

Appeal Type: Appeal against sentence.

Facts: The applicant had recently divorced from Ms Barnes, the mother of his four year old daughter (the victim). Consent orders were made in the Family Court which reduced the applicant’s share of custody. The applicant was distressed by this outcome. A few days later, he was driving with his three children and had a telephone conversation with Ms Barnes, telling her that she would never see her children again. He pulled the car over and threw his four year old daughter off a bridge.

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

Decision and Reasoning: The appeal was dismissed. There were a number of aggravating circumstances on the facts including that the applicant killed an innocent child, the circumstances of the killing were horrendous and the child’s death would have been painful and protracted, the applicant’s conduct was a fundamental breach of trust, the killing was in the presence of his two sons, the applicant killed his daughter in an attempt to hurt his former wife as much as possible, the crime was committed in a public place, the applicant offended the public conscience, and the applicant threatened his ex-wife in the presence of their children (see [15]). The most heinous nature and gravity of the applicant’s offending, his lack of remorse and poor prospects for rehabilitation, meant that a non-parole period of 32 years was not manifestly excessive.