

***Romeo v R* [2020] NSWCCA 221 (31 August 2020) – New South Wales Court of Criminal Appeal**

‘Administration of justice’ – ‘Application for leave to appeal against sentence’ – ‘Family law dispute’ – ‘Soliciting to murder’

Charges: Soliciting to murder x 1.

Proceedings: Application for leave to appeal against sentence.

Facts: The male applicant contravened a protection order protecting his former wife. The applicant arranged a third party to murder the victim before his next appearance in court, paying the third party \$30,000. The third party planned to defraud the applicant and informed police of the applicant’s intention to murder his former wife. An undercover police operative posing as the person who would carry out the murder met with the applicant and was instructed to get the victim to write a letter to her son to explain the victim’s disappearance. The original sentence was 9 years and 9 months commencing on 18 November 2016 and expiring on 17 August 2026 with a non-parole period of 6 years expiring on 17 November 2022.

Grounds: (1) The sentencing judge erred in finding that the offending fell within the middle of the range of seriousness; (2) the sentence was manifestly excessive.

Decision and reasoning: *Leave to appeal granted. Appeal dismissed.*

(1) The assessment of the objective seriousness of the offence as falling within the middle range was open to the judge.

[88] In the present case, the offence was motivated at least partially by the applicant’s wish to have his former wife murdered before he was due to attend court on 29 November 2016 for the AVO. As this Court has emphasised, an offence of solicit to murder is seriously aggravated where the motive is to interfere with the administration of justice.

Citing *Efthimiadis v R (No 2)* [2016] NSWCCA 9 (9 February 2016) at [85]-[86] of that decision:

[85] Personal and general deterrence are important considerations in the sentencing exercise for the reasons previously given and as the offence of soliciting a person to murder another is a heinous crime

...

[86] In my mind, there is another reason that general deterrence has significance in the present case. All too often partners in a domestic relationship resort to violence. The community cannot tolerate violence in any domestic setting, but the community's abhorrence of a crime intended to secure the custody of a young child by the murder of the mother needs to be expressed in the sentence to deter persons who might be like-minded to commit such a crime.

(2) The sentence was not manifestly excessive.