***Droudis v R* [2020] NSWCCA 322 (10 December 2020) – New South Wales Court of Criminal Appeal**

'Application for leave to appeal against sentence' – 'Coercive control' – 'Family court matters' – 'Female perpetrator' – 'Immolation' – 'Murder' – 'Past domestic and family violence' – 'Step-children' – 'Victim as perpetrator' – 'Weapon'

Charges: Murder x 1.

Proceedings: Application for leave to appeal against sentence.

Facts: The female applicant was the partner of Man Haron Monis (who was the perpetrator of, and died during, the Lindt Café siege in December 2014) ([6]). Prior to meeting Monis, the applicant had not been involved in any criminal conduct ([5]). It was accepted that Monis exercised a significant degree of influence/psychological persuasion and a measure of control over the applicant, fortified by a level of physical abuse, and she was prepared to act at his behest ([9], [37], [38], [39]).

Man Haron Monis planned the murder of his former wife (the victim, with whom he had two children). But he was not prepared to carry out the killing himself, planning with the applicant that instead she would carry out the murder. Part of the applicant's motive included the desire to form a "single family unit" with Man Haron Monis and the children ([29(h)]; [69]).

The applicant stabbed the victim 18 times before dousing her with petrol and setting her alight. The applicant was convicted of the murder of the victim following a judge alone trial. She was sentenced to 44 years imprisonment, with a non-parole period of 33 years.

Grounds of appeal:

1. The sentencing judge erred in his assessment of the significance of the death of Man Haron Monis to the applicant's risk of re-offending and prospects of rehabilitation.
2. The sentencing judge erred in his application of s 22A of the *Crimes (Sentencing Procedure) Act 1999* (NSW), which deals with the power of the court to reduce penalties for facilitating the administration of justice.
3. The sentence was manifestly excessive.

Held: Leave to appeal granted, ground 1 upheld. The applicant was re-sentenced to a term of imprisonment of 35 years with a non-parole period of 26 years and 3 months. Grounds 2 and 3 dismissed.

Ground 1: The sentencing judge failed to take into account the death of Monis, and the removal of his ongoing influence on the applicant, as relevant factors in determining future dangerousness, the need for personal deterrence, and the prospects of rehabilitation ([68]-[72]).

Ground 2: The sentencing judge gave proper consideration to the nature of the assistance given ([99]). Section 22A did not require a two-stage approach to sentencing (as opposed to taking the matter into account as part of the "instinctive synthesis approach"), nor impose a legal requirement to quantify the extent to which the sentence was reduced ([100]-[104]). While it would provide further transparency to the sentencing process if the court specifies the penalty that would be imposed but for the assistance provided, a failure to quantify the discount does not by itself establish error ([105]).

Ground 3: The sentencing judge did not err in his conclusion that the psychological persuasion of Monis, and physical abuse, did not give rise to "a form of non-exculpatory duress such as to reduce the applicant's moral culpability". The sentencing judge was also correct in his finding of the objective gravity of the offence, and in concluding there was no evidence of contrition or remorse (but there was limited evidence of remorse/ rehabilitation on appeal) ([118]-[119]).

In re-sentencing, despite the relevance of the death of Monis to the applicant's prospects for rehabilitation and re-offending, the Court noted that the offence was serious and retribution/general deterrence were significant ([120]-[129]).