***Majzoub v Regina* [2019] NSWCCA 94 (8 May 2019) – New South Wales Court of Criminal Appeal**

'Accumulation of sentence' – 'Legal representation and self-represented litigants' – 'Obstruct justice' – 'Physical violence and harm' – 'Sentencing'

Charges: The applicant was arraigned on an indictment containing 17 counts. Counts 1 to 11 charged various offences of violence and of detaining for advantage (including common assault); while counts 12 to 15 alleged that the applicant attempted to influence the complainant not to give evidence against him.

Case type: Application for leave to appeal against sentence.

Facts: Norton DCJ sentenced the accused to an aggregate term of imprisonment for 12 years with a non-parole period of 9 years. That sentence was partly accumulated upon an aggregate sentence for other offences imposed on him by Bennett DCJ. The applicant pleaded guilty to offences, such as common assault and attempting to influence the complainant not to give evidence made directly by him and through one of his sisters. He was found guilty of possession of an offensive weapon with intent, reckless wounding, two counts of assault occasioning actual bodily harm, and two counts of detaining for advantage.

The applicant sought leave to appeal against the sentence on the basis that it was manifestly excessive. He sought a lesser non-parole period, and argued that there should be greater measure of concurrency in the indicative sentences ([14]). Although the application was outside the limitation period, there was no objection by the Crown that an extension of time should be granted ([6]).

Issue: Whether, in any event, the aggregate sentence is manifestly excessive.

Held: The Court granted leave to appeal, but would dismiss the appeal.

*Personal circumstances:*

The applicant was born in Lebanon, his father used to assault his mother under the influence of alcohol, he left school in year 8 and had very little employment since. He began to use drugs at the age of 14. At the time of his arrest, he was using ice on a daily basis ([11]). Notably, the applicant had an extensive criminal history, including drug offences, stalking and intimidating and contravening apprehended violence orders. The present offences were committed while he was on some kind of conditional liberty ([10]).

*Non-parole period:*

The Court noted that Norton DCJ needed to find special circumstances before departing from the 9 year non-parole period that was the statutory norm in accordance with section 44(2) of the *Crimes (Sentencing Procedure) Act 1999* (NSW). It was open her Honour to decline to make a finding of special circumstances ([16]-[18]).

*Accumulation/concurrence:*

The Crown noted that the total of the indicative sentences for the present offences was 29 years and 10 months, so that the aggregate sentence of 12 years would demonstrate a substantial measure of concurrence. The Court held that Norton DCJ's determination in that respect, and her decision as to the measure of the accumulation of the aggregate sentence upon the sentence imposed by Bennett DCJ, demonstrated an exercise of discretion consistent with established principle ([23]).

*Manifestly excessive:*

A sentence will only be manifestly excessive if it is 'unreasonable or plainly unjust' ([25]). The Court stated that the offences constituted a pattern of domestic violence of considerable gravity, and noted the seriousness of domestic violence and the need for denunciatory and deterrent sentences. Their Honours found that Norton DCJ fairly described the applicant's subjective case as 'far from compelling', and held that the aggregate sentence, including the non-parole period, were well within the legitimate bounds of the exercise of her discretion. Therefore, the sentence was not shown to be unreasonable or plainly unjust ([28]-[29]).