

***The Queen v Deacon* [2019] NTCCA 22 (11 October 2019) – Northern Territory Court of Criminal Appeal**

‘Child - criminal history’ – ‘Crown appeal against sentence’ – ‘Deterrence’ – ‘Manifestly inadequate’ – ‘Murder’

Charges: Murder x 1

Proceedings: Crown appeal against sentence

Grounds: The non-parole period fixed by the sentencing judge is manifestly inadequate:

1. The sentencing judge failed to give primacy to the sentencing objectives of general deterrence and denunciation in the sentencing synthesis;
2. The sentencing judge erred in his assessment of the respondent’s prospects for rehabilitation.

Facts: The respondent man was sentenced to imprisonment for life with a non-parole period of 21 years and six months for the murder of his de facto partner. While initially pleading not guilty, the respondent admitted to killing the deceased during the trial but ‘asserted that he had done so under provocation’ [3]. The trial judge found that a longer non-parole period was warranted because the respondent ‘killed the deceased specifically to ensure that she would have no role in their son’s upbringing...That the respondent engaged in detailed and calculated planning prior to the killing, and a complex cover-up after the event...The respondent positively obstructed and misled police investigating the disappearance of the deceased...[and] that the respondent demonstrated no remorse for killing the deceased’ [5].

Decision and reasoning:

The appeal was dismissed.

'In our opinion, the sentencing judge was no doubt correct in determining that a longer non-parole period was warranted because the objective and subjective factors affecting the relative seriousness of the crime placed the offending above the middle of the range of objective seriousness even allowing for mitigating factors. The question is whether the non-parole period fixed as part of that assessment was manifestly inadequate.' The court provided that because the crime committed 'did not involve the use of a weapon; it was not committed in company; the attack upon the victim was relatively swift and did not involve a prolonged physical assault upon her; the victim was not mutilated; the victim was not psychologically tormented prior to being killed; and the victim was not made to suffer physically prior to being killed' [56], the non-parole period was not manifestly inadequate. They also provided that 'the respondent's lack of remorse did not operate as a ground for increasing the length of the non-parole period' [56], and that the respondent's criminal history and personal circumstances were not aggravating factors.