

***R v Sprott; Ex parte Attorney-General (Qld)* [2019] QCA 116 (14 June 2019) – Queensland Court of Appeal**

‘Attempted murder’ – ‘Leniency’ – ‘Mitigating factors’ – ‘Sentencing’

Charges: Attempted murder x 2.

Case type: Appeal against sentence.

Facts: The respondent and his partner had an argument after the respondent came home from the pub. The respondent later walked to his mother’s house, where his mother lived with her partner, and violently assaulted them. The respondent’s mother suffered multiple injuries, including a fracture to her eye socket, while her partner suffered fractures, 2 broken ribs and an injured liver. The respondent pleaded guilty to 2 counts of attempted murder. Crow J, the sentencing judge, sentenced the respondent to 2 concurrent sentences of 9 and a half years imprisonment.

Issue: The Attorney-General appealed against the 2 sentences on the ground of manifest inadequacy. Key questions included whether Crow J gave appropriate weight to the mitigating and aggravating factors of the offence and the respondent’s personal circumstances, and whether a sentence below 10 years imprisonment for 2 counts of attempted murder was manifestly inadequate.

Held: The Court dismissed the appeal. Appellate intervention is not justified simply because the result is markedly different from other sentences that have been imposed in other cases ([15]). Rather, the Attorney-General was required to demonstrate actual error with Crow J’s reasoning.

The Attorney-General’s submissions included that the attacks were premeditated, that the respondent lacked remorse, that his guilty pleas were late, and that he carried out the offending while he was subject to a Domestic Violence Order ([20]). The respondent had previously assaulted his mother. It was submitted that the Crow J did not give these matters appropriate weight ([21]).

The Court noted that the case involved substantial mitigating factors that were personal to the respondent ([23]). The respondent’s current state of health was partly caused by his mother’s lifelong neglect of him, and was significantly exacerbated by both of his victims’ irresponsibility over the respondent’s son’s death, and by their callousness afterwards ([40]).

It was in these circumstances that Crow J viewed the respondent's case as 'far from general.' The most relevant circumstance was the killing of the respondent's son by the victims' dog ([37]). The offending was motivated by the son's death 'in a most violent fashion' ([35]). The Court held that it was open for Crow J to give substantial weight to the mitigating factors and, subsequently, impose a somewhat 'lenient' sentence. It was not for the Court of Appeal to substitute its own views about these matters ([41]).