Johnson v Parole Board of Queensland **[2020] QSC 108 (11 May 2020) – Queensland Supreme Court**

'Application for judicial review' – 'Attempted murder' – 'Good behaviour' – 'Improper exercise of power' – 'Murder' – 'Natural justice' – 'Parole application' – 'Physical violence and harm' – 'Rape' – 'Rehabilitation programs' – 'Stepchildren in the family' – 'Weapon'

Offences: Murder x 4; Attempted murder x 1; Rape x 1

Proceedings: Application for judicial review

Issue: Whether parole should be granted.

Facts: The male applicant plead guilty to murdering his female partner and three of her four children from her earlier marriage. He also plead guilty to the attempted murder and the rape of the fourth child of that marriage. The applicant had used a hammer to inflict head injuries on the victims, and scalded the fourth child with boiling water. The fourth child was not found for five days and suffered permanent injuries. The applicant was convicted on all counts and sentenced to life imprisonment for the murder charges and 14 years' imprisonment for the rape charge.

After serving 13 years in custody, the applicant became eligible for parole. He made several applications for a parole order, but all were refused. The applicant applied for judicial review of the latest decision refusing parole, contending that the decision was affected by an improper exercise of power because: the refusal was unreasonable, the Parole Board failed to take relevant considerations into account, and the Board applied a rule or policy without regard to the merits of the case. The applicant also contended that there was a breach of the rules of natural justice.

Held: The judge dismissed the applicant's application for judicial review of the Parole Board's decision. His Honour held that the Board's decision, as evidenced by its statement of reasons, did not lack an evident and intelligible justification when all the relevant matters were considered, and therefore the decision was not unreasonable [35]. His Honour noted that "the Board is not compelled to grant parole to a prisoner who has served any particular length of timer in custody or in residential accommodation, who has completed any particular number (or all) of the available recommended rehabilitation programs or who has been of good behaviour for any particular length of time" [32] – what is important is whether the offender shows "internal change, in the sense of the development of an understanding by the offender of the pathways to offending, the triggers that lead along that path and the steps the offender can take …" [33]. In this case, the applicant had not, and still posed a risk to the community.

His Honour also held that the Board did not fail to take a relevant consideration into account, namely a program completion report, as the Board expressly referred to extracts from this report in its statement of reasons [39]-[40]. Nor did the Board apply the policy asserted by the applicant (that the Board followed the commissioned psychiatric opinion without considering alternate views by other experts) inflexibly as the Board's statement of reasons demonstrated that it considered alternate views of a range of other experts [42], [48].

The judge further held that the Board's decision was not affected by any breach of the rules of natural justice [55]. The applicant was invited to make submissions to the Board on multiple occasions, and no complaint was made that the applicant had inadequate time to effectively prepare [54].