

***Hopkins v The Queen* [2015] VSCA 174 (19 June 2015) – Victorian Court of Appeal**

‘Aggravating circumstances’ – ‘Mitigating circumstances’ – ‘Murder’ – ‘People affected by substance misuse’ – ‘Physical violence and harm’ – ‘Sentencing’ – ‘Worst category of offending’

Charge/s: Murder.

Appeal Type: Application for extension of time for leave to appeal against sentence.

Facts: Following a plea of guilty, the applicant was sentenced to life imprisonment with a non-parole period of 30 years for the murder of his de facto partner. Both the applicant and the victim were heavy users of illicit drugs and the relationship was characterised by violence committed by the applicant against the victim. On the day of the offence, the applicant poured petrol over the victim at a petrol station and set her alight. The victim was conscious and screaming the entire time while the applicant taunted her. He actively prevented bystanders from helping the victim by threatening them with a knife. In sentencing the applicant, the judge concluded that the applicant’s behaviour was an example of ‘the worst kind of viciousness and sadistic behaviour that a court is likely to ever see’.

Issue/s: The head sentence and the non-parole period were manifestly excessive. In particular, the sentencing judge erred in placing this murder in the worst category of the offence.

Decision and Reasoning: The application was refused. While the applicant’s conduct arose out of a drug-fuelled rage, it was very clear the applicant understood what he was doing. In this context, his drug consumption did not reduce his moral culpability in any way (See [42]). Further, significant aggravating circumstances were present which explained why the objective gravity of the offence was elevated namely, the circumstances of the death, the applicant’s conduct at the time of offence, and the fact that others were exposed to this horrific event (See [45]). The applicant’s guilty plea and criminal history were given adequate weight.