

***The State of Western Australia v Stoeski* [2016] WASCA 16 (19 January 2016) – Western Australia Supreme Court (Court of Appeal)**

‘Deterrence’ – ‘Murder’ – ‘People affected by substance abuse’ – ‘People with mental illness’ – ‘Physical violence and harm’ – ‘Rehabilitation’ – ‘Sentencing’

Charge/s: Murder (two counts).

Appeal Type: Appeal against sentence.

Facts: The first victim was the respondent’s long term partner. He had an unfounded and delusional belief in her infidelity. He killed her by asphyxiation in their bedroom. After killing her he bound her head and neck with multiple layers of duct tape and wrote derogatory remarks across her forehead. The second victim was the respondent’s long-term male friend and associate. He had an unfounded and delusional belief that his friend was spreading rumours about him. He stabbed him three times and struck him repeatedly to the head with a chrome vehicle component. The respondent had a history of mental illness and had ingested a substantial amount of illicit drugs in the period leading up to the offences. He was sentenced to life imprisonment with a non-parole period of 21 years for each count. The sentences were to be served concurrently.

Issue/s: Whether the non-parole periods were manifestly inadequate.

Decision and Reasoning: The appeal was upheld.

The Court held that these murders were at the upper end of the scale of seriousness. The killings were unprovoked and the first victim was extremely vulnerable as she was smaller in stature than the respondent and isolated in her bedroom. The respondent treated the first victim in a degrading manner and he made no attempt to seek medical assistance. The killing has deprived their children of their parents (see further at [153]). Mitigating factors included his plea of guilty, genuine remorse and good prospects of rehabilitation. However, these mitigating factors were outweighed by the brutal and sustained nature of the attack and the respondent’s entrenched drug abuse. The appellant’s rehabilitation prospects had to be understood in the context of the drug abuse and the difficulty of predicting rehabilitation progress for offenders of that kind. As such, the main sentencing considerations were just punishment and personal and general deterrence. The non-parole period on each count was increased to 27 years.