



Judgment Summary

Supreme Court
Australian Capital Territory
Court Of Appeal

Tuesday, 20 February 2024

Director of Public Prosecutions v Padreny [2024] ACTCA 4

Loukas-Karlsson, McWilliam and Abraham JJ

By majority judgment, the Court of Appeal has allowed a prosecution appeal against a sentence imposed for multiple offences committed in the course of an intimate partner relationship. The offending involved making a reckless threat to kill, two instances of choking, forcible confinement, common assaults, two assaults occasioning actual bodily harm where surgery was required, minor property damage, and making a demand with a threat to endanger health, safety or physical wellbeing where the threat involved the holding of a taser close to the victim's chest.

The Court held there were errors in principle affecting the applicable discount for a plea of guilty for four offences and factual error in the objective seriousness of one offence.

The majority (McWilliam and Abraham JJ) further held that four offences were individually manifestly inadequate, that there was manifest inadequacy overall, arising from, amongst other things, excessive concurrency in the aggregate sentence structure and the non-parole period was disproportionate to the scope and gravity of the offending, which was of a very serious nature.

In dissent, Loukas-Karlsson J would have exercised the residual discretion to decline to intervene, as correcting the specific errors identified would amount to tinkering, and the overall sentence, while lenient, was not manifestly inadequate, considering the need for rehabilitation of people upon their release from custody.

The sentence was increased from an aggregate imprisonment term of 5 years and 7 months to 8 years, 9 months and 29 days.

The non-parole period was also increased from 2 years and 6 months to 5 years.

This summary has been prepared for general information only. It is not intended to be a substitute for the judgment of the Court or to be used in any later consideration of the Court's judgment.

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