



Judgment Summary

Supreme Court
Australian Capital Territory
Court Of Appeal

Friday, 15 March 2024

Porter v The Queen [2022] ACTCA 9

Mossop, Bromwich and Baker JJ

The Court of Appeal has unanimously allowed an appeal against sentences imposed for child sexual offending in respect of several victims.

The appellant had disputed the frequency and nature of the offending which was the subject of Count 2, engaging in a sexual relationship with a child under special care. After a disputed facts hearing, the primary judge accepted the prosecution's allegations about the number of occasions and form of sexual abuse. The first ground of appeal alleged that the primary judge's reasons on the disputed facts were inadequate, as they included copying of the prosecution's submissions. The Court found that although aspects of the reasons were concerning, the reasons sufficiently demonstrated that the primary judge had given independent and impartial consideration to the evidence.

However, the Court upheld ground 2 of the appeal, finding that the primary judge's conclusion as to the number of occasions of sexual abuse was not reasonably open. Whilst the evidence demonstrated that the appellant sexually abused the victim considerably more times than he acknowledged, it was not possible to conclude beyond reasonable doubt that the appellant sexually abused the victim on 35 or more occasions. However, the Court emphasised that the essence of the offending is the acute and repeated breach of trust, rather than the specific number of occasions of abuse.

The Court also upheld the appeal against sentence in relation to Count 3, grooming a young person, finding that the sentence imposed for this count was manifestly excessive.

The Court resentenced the offender to a total effective sentence of 17 years' imprisonment with a non-parole period of imprisonment for 11 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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