

MATTHEW JAMES TEHAU TEEPA

v

THE QUEEN

Coram: Gault J
Keith J

Appearances: R G Glover for Applicant
J C Pike for the Crown

Judgment: 14 October 2004

JUDGMENT OF THE COURT

[1] Mr Teepa was sentenced, following an early guilty plea, to seven years imprisonment on charges of sexual violation, attempted rape and kidnapping. The sentencing judge also imposed a minimum term of four years imprisonment. In his appeal to the Court of Appeal, which was confined to the minimum term, he accepted that he could not challenge the imposition of a minimum term; the “sufficiently serious” threshold had been crossed. The Court rejected his appeal against the length of that minimum term. He now seeks leave to appeal against that decision.

[2] In his application for leave to appeal Mr Teepa, in answering the question why this Court should give leave, said this:

The question of minimum non-parole periods has been vexed since the enactment of the Sentencing Act 2002. The problems inherent in the original sections have not been resolved by the recently enacted amendment so that in the absence of clear directions from Parliament it is a matter of general and public importance for clear guidance to be given to the lower Courts on procedures to be followed when minimum non-parole periods are set.

In answer to the question – what Judgment does he seek from this Court – he simply referred back to that answer.

[3] The written submissions in support of his application for leave similarly do not give reasons for altering the actual decision. Rather, they set up another abstract issue which is another step back from the reason for granting leave stated in the initial application and set out in para [2] above:

... leave to appeal should be granted upon the basis that, as a matter of public importance, sentencing should be transparent and adequately explained. Setting a minimum non-parole period is effectively the imposition of a more severe sentence than that which would have been imposed in the general run of similar cases. It is submitted that the period must be justified by reference to the aggravating features and all the mitigating factors and the effect or lack of effect of each should be spelt out.

[4] While those matters are being put abstractly the application is in respect of a proposed appeal against the dismissal of the appeal against the minimum term. We do not accordingly accept the Crown's argument that there is no proposed appeal before us. We do however accept, as we indicate briefly in the remainder of this decision, that the abstract nature of the grounds submitted stands in the way of the application being granted.

[5] We return to those grounds. On that which concludes the written submissions (para [3] above) we agree of course that adequate reasons must be given. Parliament indeed had made that explicit in s31 of the Sentencing Act 2002. But that consideration does not help the applicant here, where reasons were given and where the Court of Appeal also addressed the relevant factors in its judgment confirming the term. No question of general or public importance arises on that account. The contention that leave should be given to enable this Court to give "clear guidance" to sentencing courts is also too abstractly stated to enable us to make a finding that this proposed appeal involves a matter of general or public

importance. However, in substance, what the applicant seems to be raising, stated at its best, is the sentencing Judge (as upheld by the Court of Appeal) erred in that the reasons given for the duration of the minimum term were so briefly expressed and the term fixed so long, that the Judge (although he said he did) cannot have considered the matters required to be taken into account and, had they been taken into account, a shorter period would have been fixed. This is in reality a question of the fixing of a particular sentence and raises no point of sentencing principle. In light of the full review by the Court of Appeal we are not satisfied the interests of justice require a further appeal.

[6] Accordingly we dismiss the application.

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