

SUPREME COURT OF QUEENSLAND

CITATION: *R v R* [2002] QCA 539

PARTIES: **R**
v
R
(applicant)

FILE NO/S: CA No 367 of 2002
DC No 154 of 2002

DIVISION: Court of Appeal

PROCEEDING: Sentence Application

ORIGINATING COURT: District Court at Southport

DELIVERED EXTEMPORE ON: 6 December 2002

DELIVERED AT: Brisbane

HEARING DATE: 6 December 2002

JUDGES: McMurdo P, Helman and Philippides JJ
Separate reasons for judgment of each member of the court, each concurring as to the order made

ORDER: **Application for leave to appeal against sentence refused**

CATCHWORDS: CRIMINAL LAW – JURISDICTION, PRACTICE AND PROCEDURE – JUDGMENT AND PUNISHMENT – SENTENCE – where applicant brought application for leave to appeal against sentence on the ground that it was manifestly excessive – where applicant raised issues not relevant to application – where applicant conceded at hearing the sentence was not manifestly excessive – where application dismissed

COUNSEL: The applicant appeared on his own behalf
B G Campbell for the respondent

SOLICITORS: The applicant appeared on his own behalf
Director of Public Prosecutions (Queensland) for the respondent

THE PRESIDENT: Mr Justice Helman will deliver his reasons first.

HELMAN J: On 21 October this year the applicant came before the District Court at Southport to answer charges in an

indictment presented on 26 March this year. The first count was one of attempted armed robbery with personal violence. The second, alternative, count was an allegation of his unlawfully assaulting a woman thereby doing her bodily harm while armed with a dangerous instrument, an iron bar. The applicant pleaded guilty to the second count and that plea was accepted by the Crown in full discharge of the indictment. The learned sentencing Judge sentenced the applicant to imprisonment for two years to be suspended after the applicant had served six months with an operational period of three years.

The applicant filed an application for leave to appeal against his sentence on the ground that it is manifestly excessive, but in the course of the hearing today has conceded that the sentence was not manifestly excessive and has made no complaint about it.

What he has said in relation to this proceeding is that at the moment he feels endangered by possible threats from other prisoners and the likelihood of his being assaulted by other prisoners. We have discussed that with him and with the Crown Prosecutor, Mr Campbell, and have suggested that steps might be taken by the Director of Public Prosecutions to bring the applicant's fears to the attention of the relevant prison authorities. The matter about which he has spoken is, in my view, not relevant to the sentence application, and therefore it follows that the application should be dismissed.

THE PRESIDENT: Yes, I agree.

PHILIPPIDES J: Yes, I also agree.

THE PRESIDENT: So your application is refused, Mr R, but the Director of Prosecutions will refer those matters to the prison authorities.
