SUPREME COURT OF QUEENSLAND

CITATION:	*R v Hill* [2012] QCA 59
PARTIES:	**R** **v** **HILL, Michael James** (applicant)
FILE NO/S:	CA No 240 of 2011 DC No 90 of 2010 DC No 73 of 2010 DC No 2432 of 2010
DIVISION:	Court of Appeal
PROCEEDING:	Sentence Application
ORIGINATING COURT:	District Court at Gladstone
DELIVERED ON:	Orders delivered ex tempore 7 March 2012 Reasons delivered 20 March 2012
DELIVERED AT:	Brisbane
HEARING DATE:	7 March 2012
JUDGES:	Chesterman and White JJA and Daubney J Separate reasons for judgment of each member of the Court, each concurring as to the orders made
ORDERS:	**Delivered ex tempore on 7 March 2012:**

1. **The application for leave to appeal is granted.**
2. **The appeal is allowed and all sentences imposed on the applicant by the District Court on 24 June 2011 are set aside.**
3. **In lieu, the following sentences are imposed:**
    a. **In respect of indictment 2432 of 2010:**
        i. **On count one: five years imprisonment.**
        ii. **On count two: three years imprisonment.**
    b. **In respect of indictment 2430 of 2010:**
        i. **On each counts 1, 2, 3 and 4: five years imprisonment.**
        ii. **On count 5: three years imprisonment.**
        iii. **On each counts 6 and 7: one year imprisonment.**

c. In respect of the summary charges on bench charge sheet 2431 of 2010, there will be a conviction recorded but no further penalty imposed.

4. All sentences are to be served concurrently.

5. The date on which the applicant is eligible for parole is fixed at today, 7 March 2012.

6. District Registry to forward by fax transmission a copy of the orders to the appellant in custody.

CATCHWORDS: CRIMINAL LAW – APPEAL AND NEW TRIAL – APPEAL AGAINST SENTENCE – GROUNDS FOR INTERFERENCE – SENTENCE MANIFESTLY EXCESSIVE OR INADEQUATE – where applicant pleaded guilty to seven count indictment containing one count of burglary while armed; one count of burglary while armed, with violence; one count of attempted armed robbery with personal injury; one count of rape; two counts of attempted rape; and two counts of common assault – where applicant pleaded guilty to further ex officio indictment containing one count of rape and one count of attempted armed robbery – where the applicant pleaded guilty to two further summary charges – where the applicant received an effective head sentence of nine years imprisonment with a parole release date after serving four years, five months – where the applicant had been in custody for a total of 701 days at the time of sentence – where the 701 days could not be formally declared as time already served – where the indictable offences related to two episodes of offending – where the indictable offences were committed against prostitutes – where the applicant was armed with a knife in each instance – where the offence of rape pertained to oral penetration – where the applicant claimed the learned sentencing judge did not properly account for time spent in pre-sentence custody – where the applicant claimed the learned sentencing judge did not make proper allowance for his plea of guilty – whether the sentence imposed was manifestly excessive in all of the circumstances

Penalties and Sentences Act 1992 (Qld), s 13, s 159A

R v Basic [2000] 115 A Crim R 456; [2000] QCA 155, distinguished
R v Flew [2008] QCA 290, distinguished
R v Hussein & Hussein [2006] QCA 411, distinguished
R v McDougall & Collas [2007] 2 Qd R 87; [2006] QCA 365, considered
R v Meizer [2001] QCA 231, distinguished
R v Wark [2008] QCA 172, distinguished

COUNSEL: The applicant appeared on his own behalf
G P Cash for the respondent

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

[1] **CHESTERMAN JA**: I agree with the orders proposed by Daubney J for the reasons given by his Honour.

[2] **WHITE JA:** On 7 March 2012 I joined in the orders pronounced on that day which are set out in the reasons for judgment of Daubney J at [39]. I did so for the reasons given by Daubney J.

[3] It is important to emphasise that to do justice to this offender it has been necessary to reduce the head sentence for the most serious offence from seven years to five years to take account of the un-declarable 701 days spent in custody which, in reality, related to these offences. That factor must be kept in mind if this sentence is to be cited as a comparable sentence for similar conduct in the future.

[4] **DAUBNEY J:** On 13 September 2010, the applicant pleaded guilty before the District Court to a seven count indictment (No 2430/10), a two count ex officio indictment (No 2432/10) and also pleaded guilty to two summary offences. He was sentenced on 24 June 2011.

[5] The offences contained in the indictments, and the terms of imprisonment imposed for having committed those offences, were as follows:

Indictment 2430/10:

Count	Offence	Sentence
1	Burglary while armed	9 years
2	Burglary while armed, with violence	9 years
3	Attempted armed robbery with personal injury	9 years
4	Rape	9 years
5	Attempted rape	5 years
6	Common assault	1 year
7	Common assault	1 year

Indictment 2432/10:

1	Rape	9 years
2	Attempted armed robbery	5 years

[6] For the summary offences of possessing the dangerous drug cannabis and possessing a utensil (water pipe), the applicant was convicted but no further penalty was imposed.

[7] The effective head sentence imposed by the sentencing judge was nine years imprisonment. The sentencing judge fixed the applicant's parole eligibility date at 24 December 2013, i.e. after the applicant served a further period of two and a half years in custody. To the date of sentence, the applicant had been in custody for a total of 701 days, although it was common ground before the sentencing judge and before this Court that the 701 days could not formally be declared as time already served, pursuant to s 159A of the *Penalties and Sentences Act* 1992[1], because there were still pending against the applicant two summary charges of failing to comply

[1] *Penalties and Sentence Act* 1992 (Qld), s 159A.

with reporting requirements which dated back to the time when he was first taken into custody. It is convenient to round the 701 days to two years.

[8] The applicant was 32 years old at the time of offending, and was 33 at the time of sentence. He had one prior conviction for stealing in Queensland, and had been convicted of robbery whilst armed as a child in New South Wales. In 2002 he was convicted of assault with active indecency and sentenced to two years supervision in New South Wales.

[9] The circumstances of the subject offending were set out in a statement of agreed facts which was tendered at the sentence hearing. The indictable offences related to two episodes of offending.

22 June 2009 offences

[10] The offences contained in the ex officio indictment occurred on 22 June 2009. The complainant was a prostitute working at Mooloolaba. The applicant phoned her in response to a newspaper advertisement, and arranged to meet the complainant at a motel room. Once inside the room, the applicant grabbed the complainant around her shoulder and neck and placed a knife against her throat. He was wearing gloves. He told her that if she did what he said she wouldn't get hurt. He said that he wanted to see her but wasn't going to pay her. The applicant placed the knife on the bed at the complainant's request, and told her that he wanted her to perform oral sex on him. He told her to lie on the bed, and continued to pick the knife up and put it back down. He straddled her and touched her vagina with his fingers while holding the knife. He told the complainant to "suck it", referring to his erect penis. The complainant tried to put a condom on his penis, but he told her not to. The complainant told the applicant that she had AIDS in an attempt to prevent him from having unprotected oral intercourse with her. The complainant said that he did not care, and the complainant performed oral sex on him. The applicant ejaculated in her mouth. He told her to swallow his ejaculate, but she spat it into a bin. During the course of this incident, the complainant asked the applicant why he was doing this. He responded: "Because I hate all you women".

[11] The applicant then demanded the complainant's money. She told him she did not have any. The applicant then said repeatedly words to the effect that "Girls are sluts" and that he was "sick of you girls ripping me off". He said that he had been ripped off before and would not pay for a girl again. He went through her belongings, but did not take anything. He then left the motel room.

[12] The complainant made a complaint to police later that day. The applicant's DNA was found in the ejaculate in the bin.

[13] The circumstances just described led to the defendant being charged on ex officio indictment with one count of rape and one count of attempted armed robbery.

17 July 2009 offences

[14] On 17 July 2009, the applicant drove to Gladstone where he telephoned a prostitute. He arranged to meet her, and then attended at her premises. He entered armed with a knife. The complainant yelled out loudly, and the applicant ran away. This was the circumstance of Count 1, burglary while armed.

[15] The offending behaviour the subject of Counts 2, 3, 4 and 5 occurred later that day, when the applicant telephoned another woman who was working as a prostitute. He

arranged to meet her. Upon entering her unit he produced a knife. The applicant was wearing gloves. He placed the blade of the knife against her neck and pulled her closer to him. He demanded money from her. She told him that she did not have any, and that she did not want to die. He told her to perform oral sex on him. The complainant tried to have the applicant use a condom, but he refused. He forced her to perform oral sex on him, while she kept telling him that she did not want to and that she was scared. He repeatedly told her to "suck properly", and pushed her head onto his penis. He then told her to remove her clothes and pushed her onto the bed. While the applicant tried to remove the complainant's pants, he put the knife to one side. The complainant was able to push the knife away and fight the applicant off her. She called out for help, and the applicant struck her in the face with his hand or fist. She fell back onto the bed and he ran away.

[16] The applicant was identified from telephone records and closed circuit television. Police executed a search warrant at his residence on 21 July 2009 and located a small amount of cannabis and a water pipe. Those items were the subject of the summary charges. Police also located clothing and a knife which matched the descriptions given by the complainants, and also found gloves.

The sentence below

[17] After setting out a brief summary of the offending behaviour, the sentencing judge noted that the original sentence hearing was adjourned to enable a psychiatrist's report to be obtained. Such a report was obtained and tendered. In relation to the report, the sentencing judge said:

> "Dr Arthur's report, among other things, sets out your personal history which is largely typical of many offenders before our Courts, of being raised in an abusive household, and suffering other personal problems during childhood, although you appear to have conducted your own carpentry business at one time before experiencing a relationship breakdown and subsequent substance abuse.
>
> It is suggested in the report that, at the time of the commission of the offences before the Court, you were under the influence of a combination of drugs and that it was 'his intention to roll pimps for money to buy more drugs.' See page 10 of the report.
>
> This latter suggestion cannot be reconciled with the agreed schedule of facts where the question of a pimp involvement did not arise in any way. In addition, the report is somewhat equivocal on the question of your 'risk of recidivism', although it does express some optimism 'as long as his substance abuse is controlled.'"

[18] The sentencing judge referred to the authorities to which he had been referred for the purposes of comparison, saying that the cases contained "a wide spectrum of circumstances of offending for serious and violent sexual offences for which a range of punishment was imposed of up to almost 14 years imprisonment."

[19] The sentencing judge then referred to the 701 day period during which the applicant had been held in custody but which could not be declared pursuant to s 159A of the *Penalties and Sentences Act* 1992 ("PSA")[2], and then noted:

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[2] *Penalties and Sentences Act* 1992 (Qld), s 159A.

"Nonetheless, in the exercise of the Court's discretion, such period of custody may be taken into account in mitigation of the sentence to be imposed here, either by reducing the head sentence or accelerating the date for consideration for parole, or otherwise."

[20] The sentencing judge continued:

"In all the circumstances, I take into account your plea of guilty to these offences at an early date; your cooperation thereby with the administration of justice; the report tendered to the Court on your behalf, and what your counsel has said. But I must also take into account the gravamen and persistence of your offending on two separate occasions, the extent of violence used, and the terror inflicted upon the respective complainants.

You are therefore convicted of all offences before the Court, and, in respect of count 1 on the ex officio indictment – that is the rape offence on 22 June 2009, and counts 1, 2, 3 and 4 on the second seven count indictment – I order that you be imprisoned for a period of nine years in respect of each offence to reflect the gravamen of each of those offences.

In respect of count 2 on the ex officio indictment and count 5 on the second indictment, I order that you be imprisoned for a period of five years in respect of each of those offences.

In respect of counts 6 and 7 on the second indictment, I order that you be imprisoned for a period of one year in respect of each of those offences with all terms of imprisonment so imposed to be served concurrently with each other.

On the question of whether I should make a serious violent offence declaration pursuant to section 161B(3) of the Penalties and Sentences Act which is within my discretion to make, I have had regard to the principles set out in the matter of the Queen v McDougall, M-C-D-O-U-G-A-L-L and Collas, C-O-L-L-A-S, [2006] QCA 365, reiterated in the Queen v Richardson [2010] QCA 216.

And as I interpret those principles, the relevant factors to be considered are;

(a) a consideration of the overall amount of imprisonment to be served by the making of such a declaration; in your case a minimum of 7.2 years before being eligible for parole;

(b) whether the circumstances of the matter in question are 'beyond the norm' for such offences;

(c) 'The existence of factors which warrant its exercise';

(d) such declaration 'to be reserved for the more serious offences that, by their nature, warrant them.';

(e) whether by the making of a declaration, the sentence imposed is manifestly excessive in the circumstances;

(f) whether there are circumstances of aggravation within the offence or offences which might impact upon the protection of

> the public or whether 'adequate punishment requires a longer period in actual custody before eligibility for parole than would otherwise be required by the Act.'
>
> On a consideration of all relevant factors including the matters raised in the psychiatrist's report, and having regard to the principles enunciated above, while the offences were very serious; contained elements of violence, particularly being armed with, and threatening to use, a knife, and were premeditated, in the exercise of my discretion, I am not persuaded to make a serious violent offence declaration. But, I consider the imposition of the head sentence of nine years as imposed for the major offences to be adequate to reflect the gravamen of the offences before the Court.
>
> Further to this, I propose to structure the sentence imposed by requiring you to have served almost four and a half years of that head sentence, including the period already served, before being eligible for parole in that, taking into account the period of pre-sentence custody of 701 days, I will set a parole eligibility date earlier than might otherwise be the case for a nine year sentence, thereby accelerating your parole eligibility date.
>
> I therefore further order, pursuant to section 160D(3) of the Penalties and Sentences Act that your parole eligibility date – that is, the date upon which you may be considered eligible for release on parole – be fixed as at that date when you have served a further period of two and a half years of your sentence; that is, at the 24th of December 2013, which therefore becomes your parole eligibility date.
>
> In respect of the two summary offences, you are convicted thereof but not otherwise punished in respect of each offence."

The present application

[21] The applicant submitted that:

(a) the sentence was manifestly excessive; and

(b) the sentencing discretion miscarried because:

(i) the sentencing judge did not properly account for the time which the applicant has spent in pre-sentence custody; and

(ii) the sentencing judge did not make proper allowance for the fact that the applicant had pleaded guilty.

[22] As appears from the passage quoted above, the sentencing judge imposed a head sentence of nine years imprisonment. He then fixed a parole eligibility date at a point four and a half years from the date when the applicant was taken into pre-sentence custody, thereby arriving at a parole eligibility date of 24 December 2013.

[23] It seems to me, however, that there are numerous difficulties with the way in which the sentencing judge approached this particular sentence.

[24] First, a head sentence of nine years for this offending was, in my view, manifestly excessive. Without in any way downplaying the seriousness of the applicant's

offending conduct, the conduct in this case was objectively less serious than that which was considered in the comparable cases to which counsel for the respondent referred.

[25] In *R v Wark* [2008] QCA 172, the Court of Appeal (by a majority) substituted a term of 12 years imprisonment for an original term of 13 years imprisonment in a case which involved five counts of rape, as well as five counts of sexual assault, one count of assault with intent to rape, one count of assault occasioning bodily harm while armed, one count of depravation of liberty and two summary charges concerning cannabis sativa. That was a case where the offender had effectively abducted the complainant and committed numerous sex acts on her, including forcing her to perform oral sex on him and an act of anal penetration. The complainant was detained for hours, during which she was repeatedly struck and verbally abused. The offences were described as "a shocking and horrible and prolonged series of violent and sexual assaults".

[26] In *R v Meizer* [2001] QCA 231, the offender had been convicted of a series of sexual offences against three separate women. The offending behaviour included vaginal intercourse, digital penetration and compelling the complainants to perform oral sex on the prisoner. The Court of Appeal was not persuaded that a sentence of 13 years and 10 months for the rapes was manifestly excessive.

[27] In *R v Hussein & Hussein*[3], two offenders were convicted after trial of six counts of rape against complainant C, with each convicted as a principal offender against C on three counts and as an aider to the other offender on the other three counts. Both applicants further pleaded guilty to 10 counts of rape and one count of depravation of liberty of a complainant D, and one of the offenders also pleaded guilty to one count of stealing from D. That offender was the principal offender in two of the counts of rape committed on D and an aider in the other eight counts; the other offender was a principal offender on three counts of rape of D and an aider on seven. The offending conduct on complainant C involved her being held at knifepoint and then being forced to perform oral sex on the offenders. The complainant was then vaginally raped on numerous occasions by the offenders. The offending against complainant D involved her being taken at the point of a weapon and subjected to sexual assaults by four men, two of whom were the offenders. The offending included anal rape by the offenders, digital vaginal rape by one of the offenders, and being forced to perform oral sex on another man, together with other forms of sexual abuse. The head sentence of 15 years, for two separate episodes of rape, was described by the Court of Appeal as high but not manifestly excessive.

[28] In *R v Basic* (2000) 115 A Crim R 456, the complainant was grabbed by the offender and dragged into bushland. He indecently assaulted the complainant, including by anal penetration. The Court of Appeal in that case considered that the comparable sentences which it considered demonstrated that the sentence of eight years imprisonment (with a serious violent offence declaration) was within an approximate range of seven to 10 years.

[29] In *R v Flew* [2008] QCA 290, an application for leave to appeal against a head sentence of ten and a half years imprisonment was refused. In that case, the offending conduct included taking the complainant at knifepoint, committing sexual assault on her, forcing the complainant to masturbate the offender, performing

[3] *R v Hussein & Hussein* [2006] QCA 411.

vaginal rape on the complainant and forcing the complainant to perform oral sex. The sentence was regarded as not manifestly excessive, although Fraser JA described it as "a very substantial sentence".[4]

[30] The applicant's conduct on the two occasions of offence in this case was certainly serious, involving the use of a weapon. The rapes did not, however, involve penetration beyond compelling the complainants to perform oral sex on the applicant.

[31] The applicant was 32 years old at the time of the offending. I have already referred to his criminal history. His childhood was considerably disadvantaged, and he suffered prolonged physical abuse at the hands of his step-father. In a report dated 12 November 2010, Dr Ken Arthur, consultant psychiatrist, made the following diagnosis:

> "**FORMULATION & DIAGNOSIS**
>
> Mr Hill is a 43 year old, twice separated man who usually works as a carpenter and has run his own business in addition to being employed as a foreman on large building projects.
>
> On 17 September 2009, Mr Hill was allegedly involved in a number of offences including robbery whilst armed, assault and rape.
>
> Mr Hill admits that he was intoxicated with a combination of cannabis and injected opiates at the time of the offences and states that his intention was to 'rob pimps' for money to buy more drugs.
>
> I understand that whilst Mr Hill does not completely agree with the facts as laid out in police documentation, he is pleading guilty to all the charges.
>
> Mr Hill currently does not present with any significant psychiatric symptoms.
>
> He describes a prejudicial childhood with exposure to neglect and abandonment from his mother and severe physical abuse at the hands of his stepfather.
>
> He described a period of depression with suicidal ideation in 1998, at which time he was given a few months of therapy and medication. He experienced suicidal ideations and acting out when he was first incarcerated but denies any further plans or desire to self-harm.
>
> Mr Hill has a significant forensic history, although by his description this consists mainly of impulsive, ill-thought-out acts without malignant intent. In relation to the current suite of charges, Mr Hill states it was his intention to rob the 'pimps' not prostitutes and claims the knife was a bluff and he did not have any intention of harming anyone.
>
> From a psychodynamic perspective, Mr Hill is an emotionally immature individual who has never really developed a true sense of self-efficacy. Although he has been able to function at a high level in his work life, emotionally he has remained dependent and it

[4] *R v Flew* [2008] QCA 290, at [51]

appears after his long-term partner separated from him he regressed to an adolescent level of coping.

It appears that Mr Hill utilizes substances as a way of regulating his affect and possibly as a tool for avoidance.

According to DSM-IV TR criteria, I have given Mr Hill the following provisional diagnosis:

Axis 1 Polysubstance abuse with possible opiate dependence, currently in remission in a controlled environment
Adjustment Disorder with Depressed Mood, currently in remission

Axis II Some antisocial/dependent/avoidant personality traits; no evidence of psychopathy

Axis III Nil relevant

Axis IV Significant social isolation, lack of supports

Axis V Global assessment of functioning score approximately 60-70 with mild symptoms and moderate impairment in role functioning."

[32] Dr Arthur expressed the following opinions:

"**OPINION**

Unsoundness of mind

At the time of the alleged offences, I believe Mr Hill was suffering from a mental illness, namely polysubstance abuse and opiate dependence. However, I do not consider these conditions deprived him of the capacity to know what he was doing, to know that he ought not do the act or the capacity to control his actions. As such, I would not support a defence of unsoundness of mind in relation to the above charges.

Issue of intoxication

I think it is likely at the time of the alleged offences, Mr Hill was intoxicated with a combination of cannabis and opiates. It is difficult to have a clear opinion on the relative contributions of intoxication versus the stated drug dependence in relation to Mr Hill's behaviours. However, I believe it is fair to surmise that Mr Hill's capacity to control his actions was impaired to some degree due to intoxication.

Fitness to plead/stand trial

Based on my assessment, I believe that Mr Hill is currently fit to plead and to stand trial in line with R-V-Presser (1958)."

[33] Having regard to the serious nature of the offending, the maturity of the applicant at the time of the offending, his antecedents, and also the fact, as appears from the psychiatrist's report, that it is likely that the applicant was suffering intoxicated impairment at the time of the offending, I consider that the appropriate head sentence in this case would have notionally been one of seven years imprisonment.

[34] It is, however, necessary to take account of the fact that the applicant spent two years in custody before being sentenced, being time which cannot be deemed time served under the sentence. A further error committed by the sentencing judge was that, in formulating the sentence as he did, the applicant was left open to at least the possibility of spending up to 11 years in custody, i.e. the two years of pre-sentence custody plus up to nine years under the head sentence imposed by the sentencing judge. In circumstances such as this, where the time of pre-sentence custody (which related completely to the offending for which the applicant was sentenced) cannot for technical reasons be deemed time served under the sentence, the appropriate approach is to discount the notional head sentence in order to reflect the time spent in pre-sentence custody. That brings the notional head sentence of seven years back to an actual head sentence of five years. A similar adjustment needs to be made in respect of the sentences imposed for the lesser offences.

[35] The next area of error on the part of the sentencing judge involved his approach to what should have been two discrete questions, namely whether a serious violent offence declaration ought be made and whether, and to what extent, the plea of guilty ought be reflected in the sentence imposed. Application had been made on behalf of the prosecution for a serious violent offence declaration to be made pursuant to Part 9A of the PSA, and, as appears in the passage quoted above, the sentencing judge certainly had regard to the relevant authority in respect of making such a declaration, i.e. *R v McDougall & Collas* [2006] QCA 365. The sentencing judge also acknowledged the fact that the applicant had pleaded guilty, and said that this would be taken into account in the sentencing process. But it is, with respect, not at all apparent as to how these separate discretions were exercised. Counsel for the respondent in this Court contended that it is to be inferred from his Honour's sentencing remarks that the process undertaken by the sentencing judge was to reject the application for a serious violent offence declaration, but to take into account the seriousness of the offending when setting the parole eligibility date at a point four and a half years from the time the applicant was taken into custody. Even if that submission be right, this reflects, in my respectful opinion, an improper elision of the exercise of discretion in respect of two discrete matters.

[36] One question was whether a serious violent offence declaration ought be made. The sentencing judge clearly came to the view that this was not an appropriate case for such a declaration. I agree. Notwithstanding the seriousness of the applicant's conduct, it was not "beyond the norm" for offences of this nature.

[37] The separate question is the allowance which should be made on sentence for the fact that the applicant pleaded guilty, in accordance with s 13 of the *Penalties and Sentences Act* 1992. The appropriate allowance in this case would be to set the applicant's parole eligibility date at a point one third of the way through the notional head sentence of seven years, and by having regard to the fact that the applicant had already been in custody for two years prior to sentence. A calculation on that basis would have seen the applicant become eligible for parole at a point 28 months (one-third of seven years) from the date he was first taken into custody, i.e. four months beyond the date on which he was originally sentenced (24 June 2011). His parole eligibility date would therefore have been 24 October 2011. As that date has already passed, it should therefore be declared that he is immediately eligible for parole.

[38] Accordingly, I am satisfied that the sentence imposed was manifestly excessive and that the sentencing judge's discretion miscarried in the respects identified above,

and it was and is appropriate for the applicant to have leave to appeal, for the sentences below to be set aside and for new sentences to be imposed.

[39] For these reasons, I joined in the Court ordering, at the conclusion of the hearing, that the applicant have leave to appeal, that the appeal be allowed, that the sentences below be set aside and that the following sentences be imposed:

1. In respect of Indictment 2432 of 2010:

   (a) On Count 1: five years imprisonment

   (b) On Count 2: three years imprisonment

2. In respect of Indictment 2430 of 2010:

   (a) On each of Counts 1, 2, 3 and 4: five years imprisonment

   (b) On Count 5: three years imprisonment

   (c) On each of Counts 6 and 7: one year imprisonment

3. In respect of each of the summary charges on bench charge sheet 2431 of 2010, there will be a conviction recorded but no further penalty imposed.

4. All sentences to be served concurrently.

5. Order that the date the applicant is eligible for parole be fixed at today, 7 March 2012.