

COURT OF APPEAL

**HOLMES JA
FRASER JA
WHITE JA**

**CA No 52 of 2010
DC No 1866 of 2008
DC No 2065 of 2009
DC No 3421 of 2008
DC No 3244 of 2009**

THE QUEEN

v

SAVELIO MAMEA

Applicant

BRISBANE

DATE 27/08/2010

JUDGMENT

APPLICANT appeared on his own behalf

MR M J COPLEY, instructed by the Director of Public Prosecutions (Queensland) for the respondent

...

HOLMES JA: The applicant was sentenced in respect of a number of offences which do not require detailing at the present time. The most serious of them was a rape, in respect of which the learned sentencing Judge considered a sentence of seven and a half year appropriate, and cumulative upon that was another sentence of two years for an assault occasioning bodily harm committed in the course of a home invasion.

Taking various factors into account, his Honour concluded that the appropriate course, having imposed those sentences, was to set a parole eligibility date halfway through the sentence but

to allow for a three month period of imprisonment, which was not declarable but which the appellant had already served, and to take that date back, then, by three months from what otherwise would have been four years and nine months, as half the sentence.

He also declared 286 days in custody but he did not make any allowance for that in setting the parole eligibility date. It seems to me that that was an error because his Honour clearly intended that the prisoner not serve more than half of his sentence and made the allowance I have already referred to.

The period of imprisonment which was declared, as I have said, was 286 days or nine and a half months. Allowing for that period already in custody, it would seem consistent with his Honour's reasoning that the parole eligibility date should have been set after three years and eight and a half months, which would have been 13 November 2013. I might say that the applicant has not made any submissions as to why his sentence was excessive, and I am satisfied that, in fact, it was a proper sentence for the offences committed; but the variation to which I have alluded should be made.

I would vary the sentence simply to the extent of setting aside the parole eligibility date of 26 August 2014 and substituting a parole eligibility date of 13 November 2013.

FRASER JA: I agree.

WHITE JA: I agree.

HOLMES JA: That is the order of the Court.