



## HIGH COURT OF AUSTRALIA

8 December 2010

ANTHONY JOSEPH LUIS HILI v THE QUEEN; GLYN MORGAN JONES v THE QUEEN  
[2010] HCA 45

Today the High Court unanimously dismissed appeals by two individuals against the sentences imposed on them by the Court of Criminal Appeal of New South Wales in respect of tax evasion offences prosecuted as part of Project Wickenby. It held that there is no judicially determined norm or starting point for the period of imprisonment that a federal offender should actually serve in prison before release on a recognizance release order.

Anthony Hili and Glyn Jones were convicted of federal offences under the *Criminal Code* (Cth) and the *Crimes Act 1914* (Cth) ("the Crimes Act") in respect of tax evasion covering over \$750,000 of income tax. In the New South Wales District Court, Morgan DCJ sentenced each offender to 18 months' total imprisonment, with a recognizance release order to take effect after seven months. On appeal by the prosecution, the Court of Criminal Appeal held that the sentences imposed were manifestly inadequate, and sentenced each accused to a total of three years' imprisonment with a recognizance release order to take effect after 18 months. The Court of Criminal Appeal noted the submission put by the prosecution that there was an appropriate ratio between a non-parole period and the head sentence, and that the non-parole period should be between 60 and 66% of the total sentence. It was argued before the High Court that there ought to be no "norm or starting point, expressed as a percentage" for the period of imprisonment that a federal offender should actually serve prior to release on a recognizance release order, and that the Court of Criminal Appeal had given insufficient reasons for its conclusion that the sentences imposed by Morgan DCJ were manifestly inadequate.

The High Court held that there neither is, nor should be, a judicially determined norm or starting point for the period of imprisonment that a federal offender should actually serve in prison before release on a recognizance release order. The Court held that the applicable provisions of Part IB of the Crimes Act, which govern the sentencing of federal offenders, made no provision fixing any relationship between the head sentence and a recognizance release order, and that the sentencing court had power to fix a recognizance release order to take effect at any time during the period of the head sentence. The Court considered that the Court of Criminal Appeal was incorrect in saying that the "norm" for a period of mandatory imprisonment under the Crimes Act is between 60 and 66%, but that the Court of Criminal Appeal was correct in concluding that the sentences imposed by Morgan DCJ were manifestly inadequate.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*