



HIGH COURT OF AUSTRALIA

14 September 2012

NATALIE BURNS v THE QUEEN
[2012] HCA 35

On 20 June 2012, the High Court allowed an appeal by the appellant against her conviction for the manslaughter of David Hay, quashing her conviction for manslaughter and directing that a verdict of acquittal be entered. Today the High Court published its reasons for allowing the appeal.

The appellant and her husband were registered participants in a methadone programme conducted by a Sydney clinic. They were in the business of selling some of their methadone to friends and acquaintances. On 9 February 2007, the deceased attended the Burns' unit to purchase methadone. His body was discovered in the toilet block at the rear of the block of units the next day. The deceased died as a result of the combined effect of methadone and a prescription drug.

The appellant was convicted of manslaughter in the New South Wales District Court. At trial, the prosecution case was left to the jury on the basis that either the appellant was a party to a joint criminal enterprise with her husband to supply methadone to the deceased and that the supply of methadone was an unlawful and dangerous act which caused the deceased's death, or the appellant's failure to seek medical attention for the deceased was a grossly negligent cause of his death.

The appellant appealed against her conviction to the New South Wales Court of Criminal Appeal, but that appeal was dismissed. By special leave, the appellant then appealed to the High Court.

The High Court allowed the appeal because, as the Crown conceded, the supply of methadone to the deceased without more was not a dangerous act that was capable of supporting the appellant's conviction for unlawful and dangerous act manslaughter. That was one of the two possibilities left to the jury to consider, and it could not be known whether the jury convicted the appellant on this impermissible basis. The Court held that the appellant was not under a legal duty to take steps to preserve the deceased's life and a majority held that the evidence given at the trial was not capable of establishing the appellant's complicity in injecting, or assisting to inject, the deceased with the drug. Accordingly, a majority of the Court declined to order a new trial and the Court made orders quashing the appellant's conviction and entering a verdict of acquittal.

- *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.*