



HIGH COURT OF AUSTRALIA

7 December 2016

R v YAVAZ KILIC [2016] HCA 48

Today the High Court unanimously allowed an appeal from a decision of the Court of Appeal of the Supreme Court of Victoria. The High Court held that the Court of Appeal had erred in holding that the sentences imposed on the respondent by the sentencing judge were manifestly excessive.

At the time of the offending the respondent was 22 years of age and in a relationship with the victim, who was 12 weeks pregnant with his child. Their relationship was described by the victim as "dysfunctional and controlled by drug use". On the evening of the offending, the victim arrived at the respondent's home in a car in the company of two mutual friends of the couple. When they arrived the respondent ran at the car with a samurai sword and thrust it through the open driver's window where one of the friends was sitting. The respondent yelled abuse at the victim but, after a time, returned to the house. Later, he approached the car and a struggle ensued as the victim attempted to fight him off. The respondent emptied a can of petrol, which had been sitting on the back seat, over the victim. He then got out of the car but returned a few minutes later and, after a further struggle, held a cigarette lighter to the victim's chest, igniting the petrol. Immediately, the victim's hair, face and clothing were engulfed in flames. After the fire was eventually extinguished, the victim was taken to hospital in a critical condition. Her injuries required multiple complex life-saving treatments. Due to the nature and seriousness of her injuries, and her long-term prognosis, the victim's pregnancy was terminated at her request.

The respondent pleaded guilty to one count of intentionally causing serious injury and two summary offences. He was sentenced by a judge of the County Court of Victoria to a total effective sentence of 15 years' imprisonment with a non-parole period of 11 years. On the respondent's appeal to the Court of Appeal, their Honours held that there was "such a disparity between the sentence imposed [for the offence of causing serious injury] and current sentencing practice as illustrated by the authorities relied upon by the parties" that they were satisfied that there had "been a breach of the underlying sentencing principle of equal justice". The Court of Appeal allowed the appeal, quashed the sentences imposed by the sentencing judge, re-sentenced the respondent to a total effective sentence of 10 years and 10 months' imprisonment, and set a non-parole period of seven years and six months.

By grant of special leave, the Crown appealed to the High Court. The High Court unanimously allowed the appeal, holding that the Court of Appeal had erred in their consideration of "current sentencing practices" by holding that the difference between the sentence imposed by the sentencing judge for the offence of causing serious injury and the sentences imposed in some other cases to which the Court of Appeal referred warranted the conclusion that the former was manifestly excessive. The High Court also held that the Court of Appeal had erred in concluding that the sentences imposed by the sentencing judge for the summary offences were manifestly excessive. The High Court made orders with the effect of restoring the sentences imposed by the sentencing judge.

- *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.*