HIGH COURT OF AUSTRALIA

NOTICE OF FILING

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Details of Filing

File Number:	B44/2025
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Important Information

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IN THE HIGH COURT OF AUSTRALIA
BRISBANE REGISTRY

BETWEEN: **THE KING**
Appellant

and

HCZ
Respondent

RESPONDENT'S SUBMISSIONS

PART I: CERTIFICATION

1. These submissions are in a form suitable for publication on the internet.

PART II: ISSUES PRESENTED BY THE APPEAL

2. In respect of the issues raised on the appeal:
    a. It was correct for the Court on appeal to infer error in the sentence imposed at first instant. In inferring error, the majority of the Court of Appeal did not apply the "correctness standard". As a result, the first question posed by the appellant does not arise.
    b. The reduction of the custodial component of the respondent's sentence, was an orthodox result of a finding by the majority that the sentence was manifestly excessive.
3. The appeal should be dismissed.

PART III: SECTION 78B NOTICE

4. No notice is required under s 78B of the *Judiciary Act 1903* (Cth).

PART IV: MATERIAL FACTS THAT CONTESTED

5. The respondent accepts the statement of facts set out at paragraphs 6 to 21 of the appellant's outline of submissions.
6. The additional relevant matters are set out in the paragraphs that follow:
    a. The matter proceeded through committal without the cross-examination of any witness. Materially, the respondent forwent cross-examination of any witness at committal even though at that stage the intention of the respondent at the time of causing the death was a live issue[1] and a matter relevant to the "circumstances" of the offence on sentence[2]. There was no point, in the progression of the matter to sentence, where those persons were compelled to recount their recollection of the murder on any application of the respondent.[3]
    b. The Crown, upon presentation of the indictment, particularised the criminal liability of the respondent as being within the parameters of s. 302(1)(b) of the *Criminal Code.* This provides a pathway to murder on the basis that the deceased's death was caused by an act done in the prosecution of an unlawful purpose where the act was of such a nature as to be likely to end another human life. The plea of guilty was not on the basis that the applicant intended to kill or cause serious harm to the deceased.[4]

PART V: STATEMENT OF ARGUMENT

7. A finding of "special circumstances" is not determined by an application of the correctness standard.[5] In the present case, it is contended by the respondent that the majority did not apply the correctness standard in allowing the respondent's

[1] Respondent's outline of submissions dated 01 May 2024 para [9.1] and Respondent's oral submissions line 10 - 17 (Book of Further Materials (**BFM**) 55 and 102).
[2] S.176 *Youth Justice Act*
[3] R v *HCZ* [2025] QCA 147, [59] (**Reasons**) (Core Appeal Book (**CAB**) 50).
[4] *Reasons,* [27] (CAB 43).
[5] This is consistent with the appellant's submissions at [27-29].

appeal.[6] The use of the phrase "ought to have been made" by Boddice JA, in proper context, does not indicate the application of the correctness standard.

8. The paragraphs that precede the impugned phrase expose the reasoning by which the majority reached a conclusion of manifest excess. In those paragraphs, the inferred error of the sentencing judge was identified as a failure to allow the seriousness of the offending to overwhelm relevant countervailing factors in mitigation.[7] The utility of the plea was found to go beyond merely being an early plea.
9. The head sentence imposed by the majority was consistent with the yardstick cases. The reduction in the custodial component of that sentence, consequent to a finding by the majority of special circumstances, was a function of the plea of guilty,[8] the respondent's genuine remorse and prospects of rehabilitation.[9]
10. That weighing of competing circumstances is an entirely orthodox approach to such a question[10] by an intermediate appellate court.[11] Further, the ultimate synthesis of those competing considerations is properly a role for intermediate appellate courts.[12]
11. The present case does not fall within the rare circumstances that justify an Attorneys appeal against sentence to this court. [13]

PART VI: RESPONDENT'S ARGUMENT ON RESPONDENT'S NOTICE OF CONTENTION

12. There has been no cross-appeal.

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[6] The respondent's appeal was allowed on the single ground that the sentence imposed was manifestly excessive.
[7] *Reasons,* [59] and [60]. (CAB 50).
[8] The fact there was an early plea of guilty distinguished it from *R v D* [2000] 2 Qd R 659; *R v W* (2000) 1 Qd R 460, *R v SBU* [2011] QCA 203, *R v Gwilliams* [1997] QCA 389 and *R v RSG* [2023] QCA all of which had been referred to in the sentencing proceedings. *R v D, R v W, R v SBU* and *R v Gwilliams* involved sentences after trials while *R v G* pleaded guilty at the start of his trial.
[9] *Reasons,* [61] (CAB 50).
[10] The question for the Court of Appeal in the instant case being whether the sentence imposed was manifestly excessive.
[11] *Munda v Western Australia* (2013) 249 CLR 600, [35].
[12] *Munda v Western Australia*, op. Cit, [60].
[13] *R v Griffiths* (1977) 137 CLR 293, [310].

PART VII: ESTIMATE OF TIME FOR RESPONDENT'S ARGUMENT

13. It is estimated that up to 45 minutes will be required for the respondent's argument.

Dated 17 March 2026

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ANNEXURE TO RESPONDENT'S SUBMISSIONS

No	Description	Version	Provision(s)	Reason for providing this version	Applicable date or dates (to what event(s), if any, does this version apply)
1	**S302(1)(b) Criminal Code Act 1899**	1899	(1) Except as hereinafter set forth, a person who unlawfully kills another under any of the following circumstances, that is to say— (a) … (aa) … (b) if death is caused by means of an act done in the prosecution of an unlawful purpose, which act is of such a nature as to be likely to endanger human life;	*Section in force at the time of the offence*	*26 December 2022*