



HIGH COURT OF AUSTRALIA

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Details of Filing

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Important Information

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IN THE HIGH COURT OF AUSTRALIA
BRISBANE REGISTRY

BETWEEN:

GBU
Appellant

and

THE KING
Respondent

RESPONDENT'S SUBMISSIONS

Part I: Certification

1. This version of these submissions is in a form suitable for publication on the internet.

Part II: Issues on Appeal

2. The issues raised for determination in the Queensland Court of Appeal were:
 - (a) Whether the sentencing judge erred by finding general deterrence remained relevant in sentencing the appellant despite him suffering a mental illness;¹ and
 - (b) Whether the sentence of 12 years imprisonment was manifestly excessive.
3. The appellant now contends the Court of Appeal erred, by not finding that the appellant's diminished responsibility required that his penalty be mitigated.
4. The Court of Appeal made no express finding that the appellant's impairment of his capacity to know he ought not do the multiple acts which killed his wife (his diminished responsibility) did not operate to mitigate penalty in the circumstances of his case. The appellant seeks to infer the error for which he contends.²
5. It seems that the appellant contends that having regard to the nature and severity of the symptoms of the mental illness he was experiencing (which lead to the finding

¹ Core Appeal Book (**CAB**) at 23 and 27 (*R v GBU* [2025] QCA 196 (**GBU**) at [4], [27]).

² *House v The King* (1936) 55 CLR 499.

of diminished responsibility), the sentence of 12 years imprisonment is manifestly excessive, because it is to be inferred that his mental condition was not taken into account, or was given insufficient weight as a mitigating factor.

6. The respondent contends that this submission is misconceived and there is no error in the approach of the Court of Appeal.
 - (a) The sentencing judge did not act on the basis of a principle that because the psychosis was drug induced it could not mitigate punishment.³
 - (b) The sentence judge's approach to the consideration of the operation of general deterrence was appropriate as a matter of law.
 - (c) The sentence imposed in the context of a maximum penalty of life imprisonment, demonstrates significant mitigation was afforded by the sentencing judge to the appellant because of the abnormality of his mind.

Part III: Section 78B Notices

7. The respondent considers that notice is not required pursuant to section 78B of the *Judiciary Act 1903* (Cth).

Part IV: Material Facts

The appellant's conduct

8. The appellant killed his wife of 27 years in objective circumstances tantamount to murder.⁴ The offence occurred when the appellant and the deceased were alone together in a hotel room after spending the weekend celebrating a friend's birthday.
9. Throughout the course of the weekend that they spent together leading up to the killing, they were observed to be acting normally and affectionately towards each other.⁵
10. At the time of the homicide, the deceased was seated on the bed in front of the appellant with her back towards him. He was giving her a massage. The deceased trusted him and was in a vulnerable position as a consequence, which allowed the

³ CAB at 28-30 (*GBU* at [30], [38], [39]).

⁴ As that phrase is used in *Pickering v The Queen* (2017) 260 CLR 151 at 162 (*Pickering*). See also *Criminal Code* (Qld) s 304A(1).

⁵ Appellant's Book of Further Material (*AFM*) at 73 and 76-77 (report of Dr. Schramm); CAB at 24 (*GBU* at [9]).

appellant to kill her. The appellant killed his wife in circumstances in which he could not have felt at risk.⁶

11. The appellant first strangled his wife for several minutes while she struggled, and then to ensure that she was dead, made large vertical cuts to each of her forearms, while she at least appeared to be unconscious. He manifested his intention to kill her twice.⁷

The state of abnormality of the appellant's mind

12. The appellant's statement of relevant facts omits, or fails to recognise the significance of, matters relevant to the nature and severity of the symptoms of impaired mental functioning he was experiencing at the time of the killing.
13. At the time of the killing the appellant's condition was much improved, he was not severely unwell.⁸ However, he maintained some residual 'low grade'⁹ delusional beliefs about his wife's behaviour within their marriage and whether his life with her had been a lie. Discussing those matters with the deceased brought them to prominence, triggering anger and impacting on his reasoning.¹⁰
14. Significantly, the Mental Health Court (**MHC**) did not find that the appellant was impaired in his capacity to control his actions, or his capacity to understand what he was doing when he intentionally killed his wife. He was only substantially impaired of the capacity to know that he ought not strangle his wife and cut her arms which grounded the finding of diminished responsibility.¹¹
15. Evidence before the MHC of Dr. Schramm, which was accepted as a basis for the finding of diminished responsibility, was that the appellant's impairment of the capacity to know he ought not kill his wife was 'more than trivial'¹² but did not approach deprivation.¹³ Put another way, although the appellant's impairment crossed the threshold of diminished responsibility, the nature and extent of his

⁶ CAB at 24 and 26 (*GBU* at [10], [24]).

⁷ CAB at 24 (*GBU* at [11]).

⁸ AFM at 23 and 26-27 (Reasons for finding of Wilson J).

⁹ AFM at 27 (Reasons for finding of Wilson J).

¹⁰ AFM at 22-23 (Reasons for finding of Wilson J) and 110 (report of Dr. Schramm).

¹¹ CAB at 25 (*GBU* at [21]); AFM at 28 (Reasons for finding of Wilson J).

¹² *R v Smith (aka Stella)* (2021) 8 QR 338, 353 at [33]-[36] (citing, with apparent approval, earlier directions on the meaning of 'substantially impaired' in *R v Lloyd* [1967] 1QB 175 at 178-179; *R v Biess* [1967] Qd R 470 and *HKSAR v Jutting* [2018] HKCA 5).

¹³ AFM at 22 (Reasons for finding of Wilson J) and 79 (report of Dr. Schramm).

abnormality of mind fell well short of depriving him of the capacity to know it was wrong to strangle his wife and cut her arms.

16. The appellant did not experience passivity phenomena, or command hallucinations. He was not compelled or driven to act by delusional beliefs to save himself or others, but by anger and irritability in response to those delusional beliefs about his wife. He was not acting out of fear or perceived threat.
17. Both the nature and severity of the delusions and how they impacted his capacity are important to any assessment of how they should be taken into account in determining sentence.
18. The appellant may also have been disinhibited in his actions and impulse control by alcohol at the time of the offence.¹⁴ Section 9(9A) of the *Penalties and Sentences Act 1992* (Qld) provides that voluntary intoxication of an offender by alcohol or drugs is not a mitigating factor for a court to have regard to in sentencing. However, in this case both the sentencing judge and the Court of Appeal, did not use this provision to find that the appellant's abnormality of his mind, was not a mitigating factor.¹⁵
19. An offender who has brought about their own condition through abuse of drugs over a long period, stands in a factually different position to one who suffers an abnormality of mind from inherent or wholly organic causes. In the latter case there has been no contribution by conduct of the offender and such an offender cannot be likened to others not so afflicted.

Part V: The Response

The operation of section 304A of the *Criminal Code* (Qld)

20. Section 304A applies to an unlawful killing which occurs under circumstances which, but for the operation of that section, constitute murder. It operates to partially excuse an offender's conduct by limiting the available charge to manslaughter only, but otherwise reserves to the sentencing court a broad discretion as to the penalty up to the maximum penalty of life imprisonment.¹⁶ Following such a determination,

¹⁴ CAB at 25 (*GBU* at [20]).

¹⁵ CAB at 32 (*GBU* at [52]). In addition to the decisions cited by Brown JA, see *R v Bowley* [2016] QCA 254 at [46]-[47].

¹⁶ *Criminal Code* (Qld) s 310.

as was made here in the MHC, the exercise of the sentencing discretion falls to the sentencing judge, guided by orthodox sentencing principles.

21. In *R v Potter; ex parte A-G (Qld)*¹⁷ Chesterman J observed at [74]:

“The operation of s304A of the Code on an offender who has deliberately killed another so as to reduce a charge from murder, with its mandatory penalty of life imprisonment, to one of manslaughter for which substantially lesser penalties can be, and usually are imposed is itself a substantial mitigation. The offender has the benefit of the lesser discretionary sentencing regime by reason of diminished responsibility.”

22. The substantial mitigation referred to is solely on account of the psychiatric abnormality which enlivens the operation of the provision. The appellant’s abnormality and consequent finding of diminished responsibility limited his legal responsibility for what would otherwise be murder, to manslaughter. Necessarily, his moral blameworthiness is also impacted and diminished from what would be the case for a murder conviction. However, moral blameworthiness for the intentional, unlawful killing, is neither eliminated nor necessarily reduced below that which would attend a serious case of manslaughter.¹⁸ It is in that context that other sentencing principles must be assessed and applied.

23. In *Potter* at [75] and [76], Justice Chesterman referred to the decision of Gleeson CJ in *R v Blackledge*¹⁹ to the effect that, notwithstanding a finding of diminished responsibility, it remained necessary to impose a sentence which reflected the objective seriousness of the intentional taking of a life. That is unsurprising and accords with the requirement of proportionality²⁰ incorporated in the *Penalties and Sentences Act* (Qld), for example in sections 9(1)(a), 9(3)(d) and 9(3)(e).

¹⁷ [2008] QCA 91 (*Potter*). Justice Chesterman dissented regarding the ultimate disposition regarding whether the sentence was manifestly inadequate.

¹⁸ In *DS v R; DM v R* (2022) 300 A Crim R 139 (*DS*) at 159 [91] the Court said: “*This raised the question: from what has the offender’s moral culpability been reduced? The short answer is from a moral culpability that corresponds or substantially corresponds with the objective seriousness (or gravity) of the offence.*”

¹⁹ Unreported NSW Court of Criminal Appeal, No 60510 of 1995, 12 December 1995.

²⁰ *Veen v The Queen (No 2)* (1987) 164 CLR 465 (*Veen No 2*).

The sentencing process

24. Section 9(1) of the *Penalties and Sentences Act* (Qld) prescribes the *only* purposes for which a sentence may be imposed. As the appellant's offending involved both violence and harm to another, the sentencing court was required to have primary regard to the principles in section 9(3). This included:

- (a) matters personal to the offender;²¹
- (b) the personal circumstances of the victim;²²
- (c) the circumstances of the offence including the death caused;²³ and
- (d) the nature and extent of violence used in committing the offence.²⁴

25. The sequence of legislative changes over time, culminating in the enactment of section 9(10A) of the *Penalties and Sentences Act*, were a legislative direction that greater weight be given to the aggravating effect on sentence of domestic violence.

26. Sentencing the appellant for manslaughter on the basis of diminished responsibility required the sentencer to determine a single sentence, after weighing all relevant factors and balancing different and conflicting features of the case, which was just in all of the circumstances. The sentence imposed had to be proportionate to his crime and his circumstances.²⁵ That is what the learned sentencing judge did and no error was demonstrated in the Court of Appeal.

27. It has been observed by the Court of Appeal in Queensland:

- a. In the context of acquittal of murder but conviction of manslaughter following a trial that: "...sentences in cases of diminished responsibility - as I see this case to be - vary greatly from terms of imprisonment as high as 20 years down to terms of only one year or even less."²⁶
- b. "The decision of this Court in *R v Bates*; *R v Baker* established that, in the most serious cases of manslaughter, the appropriate sentencing range, even where the offender has pleaded guilty, is 15 to 18 years imprisonment."²⁷

²¹ *Penalties and Sentences Act* (Qld) ss 9(3)(g)(h) and (j).

²² *Penalties and Sentences Act* (Qld) s 9(3)(c).

²³ *Penalties and Sentences Act* (Qld) s 9(3)(d).

²⁴ *Penalties and Sentences Act* (Qld) s 9(3)(e).

²⁵ *Markarian v The Queen* 228 CLR 357 (**Markarian**) at 373-374; *Veen No 2*.

²⁶ *R v Miguel* [1994] QCA 512 at 4, per McPherson JA. See also *Pickering* at 162.

²⁷ *R v Corry* [2006] QCA 203 at [25] per Keane JA. The appellant was acquitted of murder seemingly because he was so drug affected that the jury retained a doubt that he acted with intent to kill or cause grievous bodily harm. No issue of diminished responsibility arose in that case.

28. The offender in *Veen (No 2)* had his life sentence for manslaughter upheld by the High Court.

29. The ‘double-edged sword’ effect of mental abnormality was referred to by the plurality in the High Court in *Veen [No 2]* at 476-477:

“And so a mental abnormality which makes an offender a danger to society when he is at large but which diminishes his moral culpability for a particular crime is a factor which has two countervailing effects: one which tends towards a longer custodial sentence, the other towards a shorter. These effects may balance out, but consideration of the danger to society cannot lead to the imposition of a more severe penalty than would have been imposed if the offender had not been suffering from a mental abnormality.”

30. Earlier in the High Court in *Channon v R*,²⁸ Brennan J said:

“Psychiatric abnormality falling short of insanity is frequently found to be a cause of, or a factor contributing to, criminal conduct. The sentencing of an offender in cases of that kind is inevitably difficult. The difficulty arises in part because the factors which affect the sentence give differing significance to an offender’s psychiatric abnormality. An abnormality may reduce the moral culpability of the offender and the deliberation which attended his criminal conduct; yet it may mark him as a more intractable subject for reform than one who is not so affected, or even as one who is so likely to offend again that he should be removed from society for a lengthy or indeterminate period. The abnormality may seem, on one view, to lead towards a lenient sentence, and on another to a sentence which is severe. That is not an unusual phenomenon in sentencing, where the court must fashion a sentence which either reconciles or balances the various objectives of sentencing, sometimes giving emphasis to one of the objectives of sentencing, sometimes giving emphasis to another. Although the court necessarily adopts a pragmatic approach, the judicial discretion is not at large, without guidance from principle. That guidance is found in the basic purpose which is to be served by the exercise of the sentencing power.”

²⁸ (1978) 33 FLR 433 (*Channon*) at 436-437.

The assessment of the sentence

31. The objective circumstances of the appellant's crime were heinous. He was determined to end her life by his two deliberate and intentional acts. He breached his wife's trust, acting on anger and emotion, based in part on delusional beliefs about his wife's conduct. After strangling her while she struggled against him, he cut her arms because he thought she might not have been dead. If she had shown signs of life, despite retaining intact capacities to understand what he was doing and to control his actions, the appellant did not offer assistance or attempt to save her. By any objective metric his was a terrible crime.
32. After pleading guilty, apart from his impairment of capacity, matters which could sensibly be urged upon the Court in mitigation of penalty were limited. The appellant's psychiatric abnormality short of insanity was assessed and taken into account in ameliorating his sentence to 12 years imprisonment. The circumstances of his offence, balanced against the nature and severity of his impairment were such that amelioration on account of that impairment 'need not have been great.'²⁹
33. The principles of punishment, deterrence and rehabilitation remain connected to the particular conduct for which an offender is to be sentenced. Any sentence ultimately imposed must depend upon both the nature and type of offence committed and on the offender.³⁰
34. It is the proportionality of the sentence as one which is '*just in all the circumstances*' that is important. That must be assessed as a consequence of an integrated examination of the seriousness of the offence and the nature and extent of any abnormality suffered rather than an inflexible approach that the existence of an abnormality must necessarily require amelioration of sentence on account of particular factors or objects.
35. Brennan J also observed:

"Mental illness may require treatment, but it does not merit punishment. Where the abnormality has caused or contributed to crime, however, the protection of society may require the imposition of punishment according to

²⁹ *R v Verdins* (2007) 168 A Crim R 581 at 587 [20], citing Hunt CJ at CL in *R v Wright* (1997) 93 A Crim R 48 at 51.

³⁰ *Channon* at 437.

the gravity of the threat which the abnormality poses, and the seriousness of the conduct to which it has contributed."³¹

36. That is what occurred in the present case in circumstances where the appellant was suffering from a *drug induced* psychotic illness.
37. Brennan J concluded his reasons in *Channon* by observing: "*No doubt his psychiatric condition will fall for consideration in any event when his non-parole period is complete.*"³² This is apt to the appellant also.

General deterrence

38. Justice Brown summarised the relevant principles in relation to the potential moderation of general deterrence for an offender who is found to have an abnormality of the mind.³³
39. In *Muldrock v The Queen*³⁴ the High Court considered the sentencing of 'mentally retarded offenders' with particular focus on the object of general deterrence. In the course of discussion, the Court cited³⁵ reasoning of Young CJ and Lush J in *R v Mooney*³⁶ to the effect that general deterrence should often (but not necessarily always) be given little weight where an offender suffers a mental disorder or abnormality. The importance of general deterrence as an object of the sentence will usually relate to the allied concepts of retribution or punishment; and that: "*The retributive effect and denunciatory aspect of a sentence that is appropriate to a person of ordinary capacity will often be inappropriate to the situation of a mentally retarded offender and to the needs of the community.*"³⁷
40. In *R v Andersen*³⁸ Young CJ and Jenkinson J cited additional statements by Lush J in *Mooney*:

"The concept of the deterrence of others by the punishment of an offender is that an understanding that an offence is followed by substantial adverse consequences will prevent others from committing the offence. Regard to this

³¹ *Channon* at 439.

³² *Channon* at 446.

³³ CAB at 27-30 (*GBU* at [28]-[38]).

³⁴ (2011) 244 CLR 120 (*Muldrock*).

³⁵ *Muldrock* at 138-139 [53]-[55].

³⁶ *R v Mooney* (unreported, Court of Criminal Appeal (Vic), 21 June 1978) at 5 (*Mooney*), cited in *R v Anderson* (1980) 2 A Crim R 379 (*Anderson*).

³⁷ *Muldrock* at 139 [54].

³⁸ *Anderson* at 384.

consideration must, I think, be relevant to the use of the law as an instrument of social administration. Its significance in a particular case will, however, at least usually be related to the kindred concept of retribution or punishment in which is involved an element of instinctive appreciation of the appropriateness of the sentence to the case."

41. In the same judgment, remarks by Young CJ in *Mooney* were also cited when his Honour said:

*"The mental condition of an offender may be taken into account when passing sentence but, whether the evidence established legal insanity or mental illness stopping short of legal insanity, the question to be answered is whether the interests of society permit or the interests of the offender require that the sentence to be passed be reduced from what would otherwise be appropriate rather than whether the offender's responsibility for the offence should be regarded as having been reduced."*³⁹

42. The Court further observed in *Muldrock* that: *"A question will often arise as to the causal relation, if any, between an offender's mental illness and the commission of the offence."*⁴⁰

43. Earlier in *R v Engert* (1995) 84 A Crim R 67 at 71 Gleeson CJ said:

"...the question of the relationship, if any, between the mental disorder and the commission of the offence, goes to the circumstances of the individual case to be taken into account in the application of the relevant sentencing principles. The existence of such a causal relationship in a particular case does not automatically produce the result that the offender will receive a lesser sentence, any more than the absence of a such a causal connection produces the automatic result that an offender will not receive a lesser sentence in a particular case."

44. Wood CJ at CL in *R v Matthews* commented on the relevance of mental abnormality to the sentencing principles of general or specific deterrence:

"Accordingly, each case will depend upon the nature and degree of the impairment, the extent of its contribution to the offence, and whether or not

³⁹ *Anderson* at 384.

⁴⁰ *Muldrock* at 139 [54].

the sentence can be seen, in the particular circumstances, of that case to have a deterrent value, either specifically or generally."⁴¹

45. Assessment of the separate but related concepts of objective seriousness of the offence and the moral blameworthiness of the offender occurs as part of the consideration of the weight to be attached to various factors for the purpose of 'instinctive synthesis' described in *Markarian*. In *DS* Beech-Jones CJ at CL, N. Adams and Cavanagh JJ commented in respect of a proposition that mental impairment *may* affect the assessment of various factors relevant to sentence but will not necessarily do so: "*The critical factors are the nature of the impairment, the nature and circumstances of the offence, and the degree of connection between the former and the latter.*"⁴² In any given case, the existence of a mental impairment or abnormality does not create a binary system with an automatic reduction in sentence outcome.
46. The existence of a mental abnormality may be relevant to different sentencing considerations, to different extents and draw the exercise of the sentencing discretion in different directions. The abnormality must be considered in context of the seriousness of the crime committed. The nature and extent of the mental abnormality and its impact on the offender and offending must bear upon those assessments. No inflexible rule is established as to how a mental abnormality will affect sentence.

Application to the present case

47. The overriding principle is that the sentence arrived at as a result of a single integrated process assessing all relevant considerations, of which a mental impairment is but one, must remain proportionate, and therefore just in all the circumstances, to the offence committed. That was the process undertaken at the appellant's sentence and examined in the Court of Appeal.⁴³

⁴¹ (2004) 145 A Crim R 445 at 451 [26].

⁴² *DS* at 102 [96].

⁴³ CAB at 28-30 (*GBU* at [30]-[41]).

48. The principles enunciated in *Victoria in R v Tsiaris*⁴⁴ and re-focused in *R v Verdins*,⁴⁵ which have been adopted in Queensland⁴⁶ were applied in the present case. Sentences are to be imposed by reference to the circumstance of the offence, the maximum penalty prescribed and among other things, with reference to relevant ‘*Verdins* considerations’, having regard to the evidence of the offender’s mental condition at the time of the offence, or sentence or both.
49. In a case such as the present, the balance to be achieved between competing considerations ought to appropriately acknowledge the nature and seriousness of the offence and proper assessment of the nature and extent of the appellant’s abnormality. General deterrence, punishment and denunciation remain relevant sentencing objectives for an offence involving the intentional taking of a human life, by a person with capacity to control their actions and to understand the nature of what they are doing, who is only impaired, but not deprived, in their capacity to know what they are doing is wrong.
50. The genesis of the appellant’s mental abnormality, being self-induced by sustained abuse of drugs over time; the fact that it had resolved by the time of the sentence and he did not require ongoing medication or treatment; and that the risk of re-occurrence was tied to a return to drug use, were factors going to the ‘nature and severity’ of the abnormality and were relevant to punishment, denunciation and deterrence.
51. The decision of the Court of Appeal was correct in its consideration of *R v Martin*.⁴⁷ None of the additional decisions now relied upon by the appellant assist in the circumstances of his case. Each of them is factually disparate and all endorse a flexible, not fixed, approach based upon the relevant circumstances of the individual case⁴⁸ consistent with the respondent’s primary contentions.
52. The sentencing judge expressly addressed the appellant’s mental abnormality. His Honour considered whether the particular circumstances of the appellant’s case were such that it (and he) were an appropriate vehicle ‘for making an example to

⁴⁴ [1996] 1 VR 398.

⁴⁵ (2007) 16 VR 269.

⁴⁶ *R v Yarwood* (2011) 220 A Crim R 497; *R v Goodger* [2009] QCA 377; *R v Adam* (2022) 297 A Crim R 156 and *R v HYQ* [2024] QCA 151. The High Court has also applied the ‘*Verdins* Considerations’ in *R v Guode* (2020) 267 CLR 141.

⁴⁷ (2007) 20 VR 14; CAB at 32 (*GBU* at [49]-[51]).

⁴⁸ See for example *Martin* at [19] and *Aravanitidis* at [29] and [34].

others'.⁴⁹ In the context of the objectively serious aspects of the offending already referred to and the impact of the abnormality of the mind on a single capacity, that conclusion was well open as part of the Court's integrated exercise of discretion.

53. The reference to the non-organic genesis of that abnormality and folly of consuming illicit drugs is but one aspect considered, and one which logically supports the conclusion already available that only limited weight be given to reducing general deterrence. The sentencing judge's remark that the case remained an appropriate vehicle for general deterrence did not express that the overall sentence was not being ameliorated on account of the mental abnormality at all or even that the weight to be given to general deterrence was equal to a case absent the abnormality. It meant no more than what was said, that general deterrence retained some relevance to the exercise of discretion in respect of the appellant.⁵⁰
54. The balance achieved between that, and other factors, is demonstrated by the proportionate sentence of 12 years imprisonment imposed as against the maximum of life imprisonment for manslaughter (and mandatory life with a minimum 20 year non-parole period for murder,⁵¹ had the appellant's mental abnormality not resulted in a finding of diminished responsibility).
55. The appellant's mental abnormality was again expressly considered under the rubric of community protection and the content of the expert opinions before the Court was referenced. Notwithstanding a clear link between the appellant's risk of relapse and a return to use of the highly addictive substances he had abused over such a long period, that issue was resolved favourably toward the appellant and was given little weight.⁵²
56. The sentencing judge next referred again to the circumstances of the killing and impact of the mental abnormality on capacity, noting that the appellant could not have felt at risk physically at the time. His Honour referred to the accounts given by the appellant to the reporting doctors. The appellant's inability to acknowledge his actions to each of Dr. Schramm and Dr. Scott was observed and his Honour

⁴⁹ CAB at 16 (Sentencing remarks of Martin SJA).

⁵⁰ CAB at 28 and 30 (*GBU* at [30], [39]-[40]).

⁵¹ *Criminal Code* (Qld) s 305; *Corrective Services Act 2006* (Qld) s 181(2).

⁵² CAB at 16 (Sentencing remarks of Martin SJA).

resolved this favourably to the appellant. His Honour acknowledged the possibility that failure arose out a psychobiological defence mechanism.⁵³

Conclusions

57. The genesis of the appellant's abnormality of mind being drug induced or self-inflicted, is a matter going to consideration of the nature and severity of that abnormality of the mind. It cannot be divorced from an assessment of the condition and its effects at the time of the offence.

58. The sentencing remarks demonstrate that the sentencing judge was fully cognisant of the nature and the extent of the appellant's mental abnormality and that that abnormality was appropriately considered as part of a single integrated assessment of the appropriate sentence to be imposed, proportionate to the gravity of the intentional killing and the appellant's circumstances.

59. The sentence imposed was proportionate;⁵⁴ no error is to be inferred. At any resentence the appellant would not receive a lesser sentence.

60. The appeal should be dismissed.

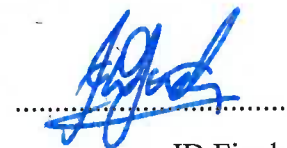
Part VI: Notice of Contention

61. Not applicable.

Part VII: Time Required for Oral Argument

62. The respondent estimates one hour may be required to present oral argument.

Dated 8 July 2026



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⁵³ CAB at 16 (Sentencing remarks of Martin SJA).

⁵⁴ CAB at 32-26 (*GBU* at [54]-[70]) considered the level of sentence imposed, including an analysis of yardstick decisions such as *R v Beacham* [2006] QCA 268 (12 years imprisonment) and *R v Zarnke* [2019] QCA 141 (13 years imprisonment), and concluded it was not manifestly excessive.

ANNEXURE TO RESPONDENT'S SUBMISSIONS

No	Description	Version	Provision(s)	Reason for providing this version	Applicable date or dates
1	<i>Criminal Code</i> (Qld)	Current	Sections 304A, 305, 310	-	-
2	<i>Penalties and Sentences Act 1992</i> (Qld)	13 December 2024	Sections 9(1), 9(3), 9(9A), (10A)	Act in force at the time sentence was passed. The Act has been changed again since.	-
3	<i>Corrective Services Act 2006</i> (Qld)	Current	Section 181(2)	-	-