



HIGH COURT OF AUSTRALIA

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Details of Filing

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Form 27F – Outline of oral submissions

Note: see rule 44.08.2.

IN THE HIGH COURT OF AUSTRALIA
BRISBANE REGISTRY

BETWEEN:

GBU
Appellant

and

THE KING
Respondent

RESPONDENT'S AMENDED OUTLINE OF ORAL SUBMISSIONS**Part I: Certification**

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

Part II: Outline of the propositions that are to be advanced in oral argument

[2] The appellant seeks to amend the ground of appeal to: *'the Court of Appeal erred, by not finding that the appellant's diminished responsibility required that his penalty by mitigated'*. That ground cannot be made out.

[3] It is only the appellant's mental abnormality and consideration of it in mitigation of sentence which removes his case from the worst category of manslaughter. The agreed facts of the killing¹ revealed an offence 'tantamount to murder', which absent mitigation on account of mental abnormality, would have called for a sentence greater than the 12 years imposed upon the appellant.

Application of the 'Verdins principles':

[4] Application of the 'Verdins principles' requires an individualised assessment of the nature and extent of the mental abnormality and how it affected the offender or contributed to the offending within the proper context of the objective circumstances of the offence itself. That is the approach endorsed by the Court of Appeal and what the sentencing judge did.

¹ Appellant's Book of Further Material (AFM) at 7-9 and 11 (Statement of Facts at [9]-[13], [19], [22]-[24] and [34]).

Moral culpability, general deterrence and self-inflicted drug induced psychosis:

- [5] Consideration of the appellant's moral culpability and the importance of general deterrence in light of his mental abnormality are inter-related.²
- [6] As to moral culpability, the question becomes whether the appellant's moral blameworthiness for killing his wife is reduced because of the impact or effect of the mental abnormality and, if it is, reduced from what.³ The second aspect of that question is to be answered by reference to the nature and seriousness of the offence established by the objective circumstances of the offence.⁴
- [7] Thereafter, assessment of the nature and extent of the mental abnormality is necessary and instructive. Here the appellant was not impaired and retained the capacity to know and understand the nature of what he was doing. He also was not impaired and retained the capacity to control his actions. He was in no way compelled or driven to act as he did by symptoms of illness such as command hallucinations born of psychosis for example.
- [8] The appellant was impaired in his capacity to know that he ought not act as he did. The apparent motivation for his actions were the content of his low-grade delusions, experienced or 'brought to prominence' immediately prior to or at the time of the killing by conversation with his wife. The content of those delusional thoughts is relevant to an assessment of moral blameworthiness. They were not such as to raise any immediate concern for his safety. Rather they raised concerns that his marriage or relationship had been based on a lie. While distressing, those thoughts provide little in the way of moral justification or explanation for the homicidal acts which followed.
- [9] In light of the nature and extent of the appellant's mental abnormality and its impact upon him and the offending behaviour, its moderating effect on his sentence need not have been great.⁵ Even more so where the appellant brought about that affliction by his own choices to abuse drugs for which he must bear some moral responsibility.⁶

² Joint Book of Authorities (JBA) at 166-167 (*Muldrock v The Queen* [2011] 244 CLR 120 at 138-139 [53]-[54]).

³ JBA at 416 (*DS v R; DM v R* (2022) 300 A Crim R 139 [91]-[92]).

⁴ JBA at 495 (*R v Blacklidge* (unreported, New South Wales Court of Criminal Appeal, 12 December 1995 at 2).

⁵ JBA at 681-682 (*R v Verdins* (2007) 168 A Crim R 581 at 273 [20] citing *R v Wright* (1997) 93 A Crim R 48 per Hunt CJ at CL); JBA at 606-607 (*R v Matthews* [2004] 145 A Crim R at 450-451 [25]-[26]); JBA at 504 (*R v Engert* (1995) 84 A Crim R 67 at 71).

⁶ JBA at 552-553 and 562 (*R v Henry* (1999) 46 NSWLR at 385 [197], 386 [206], 395 [257]).

[10] While the self-induced nature of a mental abnormality does not necessarily prevent it being taken into account in moderation of sentence, it is a relevant feature to be considered in a proper assessment as to whether the abnormality will (or to what extent) moderate a sentence in a particular case. The self-induced nature of a drug related psychosis is a feature of mental abnormality in any given case which may militate against significant amelioration of sentence on that account.⁷

[11] Here, the appellant unlawfully killed his former wife while experiencing an altered state of mind brought about as a consequence of his own choices. Such delusional thinking as was experienced by him provides no moral justification or explanation for his subsequent actions.

[12] In all of the circumstances of the case, general deterrence remained a relevant sentencing consideration.

Dated: 16 October 2026



J D Finch & C Cook
Counsel for the respondent

⁷ JBA at 337 (*Butler v The State of Western Australia* [2010] WASCA 104 at [59]-[60]); JBA at 387-388 (*Director of Public Prosecutions (Vic) v Arvanitidis* (2008) 2002 A Crim R 300 at [27]-[30]); JBA at 647-648 (*R v Sebalj* [2006] VSCA 106 at [14]-[15]).