

# Court Notes

## Mackey -v- Regina

Court of Criminal Appeal No. CA4 of 1996

Judgment of Kearney, Bailey and Priestly JJ delivered 13 March 1997 (unreported)

CRIMINAL LAW - SENTENCING - DRUG ADDICTION

### HELD

The appellant sought leave to appeal against the severity of a sentence imposed following his plea of guilty in respect of one charge of aggravated robbery. The aggravating circumstances were that the robbery was committed in company with another person, the appellant and his co-offender were armed with an offensive weapon and bodily harm was caused to the victim.

The appellant gained entry to the Alice Pacific Resort, where he was employed as a waiter, before the victim was struck to the head with a lump of concrete which was wrapped in a piece of cotton cloth. She was tied and gagged before the robbers fled with several thou-

sand dollars.

The appellant admitted the offence when interviewed. He was sentenced to seven and a half years imprisonment, a non-parole period of two years and nine months being specified by Mildren J.

The appellant argued that the sentence imposed was manifestly excessive. Senior Counsel submitted that the commission of the offence was under the influence of an addiction to methamphetamine was a powerful mitigating factor. Mildren J had found that this made the appellant "to some degree less morally culpable", referring to the appellant's sleep deprivation due to drug use at the time of the commission of the robbery.

In granting leave to appeal but dismissing the appeal, the Court unanimously HELD:

1. The sentence was not manifestly excessive;
2. The need to support a drug addiction cannot be relied upon by armed robbers as a substantially mitigating fac-

tor for the purposes of sentencing.

The Court approved comments made by Callaway JA in *Bouchard* (1996) 84 A Crim R 499 to the effect that a distinction is to be drawn between street level drug trafficking offences and armed robbery offences committed to feed an addiction.

### APPEARANCES

#### Appellant

Counsel	Grace QC
Solicitors	Georgiou

#### Respondent

Counsel	Adams
Solicitors	Stirk

### COMMENTARY

Drug addiction is itself not a mitigating factor in sentencing but may explain the commission of an offence. In some cases drug rehabilitation prior to sentencing will prevent the punitive and deterrent aspects of sentencing prevailing to destroy the results of rehabilitation (see *Duncan* 9 Aust Crim R 354).

By Mark Hunter

## How much does domestic violence cost Territorians?

KPMG Management Consulting was commissioned by the Office of Women's Policy in the Department of the Chief Minister to determine the cost of domestic violence. The report conservatively estimates direct costs at nearly \$9 million each year. It is further estimated that indirect costs, for factors such as loss of earnings and decreased productivity total \$4 million. The report identifies that the community, along with Government, bears 81% of the direct costs of domestic violence. If you would like a copy of the report, please contact:

Office of Women's Policy  
Department of the Chief Minister  
GPO Box 4396  
DARWIN NT 0801  
Telephone: 8999 6884 Facsimile: 8999 7523



Northern Territory Government  
Domestic Violence Strategy