

Judicial Communications Office

Friday 18 November 2011

COURT QUASHES DECISION OF PAROLE COMMISSIONERS

Summary of Judgment

Mr Justice Treacy, sitting today in the High Court, quashed a decision of the Parole Commissioners not to release an applicant, referred to in court as JR63, on the grounds that its reasons gave rise to substantial doubt as to whether the Commissioners erred in law.

JR63 was sentenced to a minimum tariff of 14 years imprisonment for the murder of 83 year old Bessie Robson in December 1994 when he was 16. The offence took place in the course of a drunken robbery of her house. Mrs Robson received blows to her head and was stabbed. Her home was then set on fire. JR63 was released on licence by the Parole Commissioners (PCNI) on 12 November 2009 but, following an incident on 10 April 2010, the Department of Justice revoked his licence and he was recalled to prison.

On 28 June 2011 the PCNI declined to make a direction to release him. The PCNI found on the balance of probabilities that he had been involved in a verbally aggressive and heated confrontation with his girlfriend and also with police officers and that he threatened the witness. The PCNI believed his behaviour arose mainly from the consumption of alcohol. JR63 was subsequently acquitted on charges of assault on a female member of the public who had alleged that he had threatened her with a bottle.

The PCNI found that JR63's recall was lawful. He did not take issue with that conclusion but challenged whether it is now necessary that he should be confined to protect the public from the risk of serious harm. At paragraph 20 of its decision, the PCNI stated:

"[20] Given the findings set out above that [JR63] is assessed as presenting a high risk of re-offending, and would therefore present a risk of serious harm, the panel of Commissioners find that they are not satisfied that it is no longer necessary for the protection of the public from serious harm that [JR63] be confined. We therefore direct that he shall not be released."

JR63 brought a judicial review of this decision on the grounds that the PCNI failed to provide any indication of how they considered or determined that he presently posed a risk of serious harm and that the PCNI misdirected themselves in conflating the risk of re-offending and the risk of serious harm. He claimed that paragraph 20, given its ordinary meaning, disclosed a clear misdirection since the risk of serious harm did not necessarily flow from a risk of re-offending. PCNI contended that the use of the word "therefore" was not intended to denote a connection between the risks of re-offending and of serious harm to the public. Rather, it reflected the existence of a strong connection between the two on the facts of this case which stemmed from the nature of JR63's offence in 1994. The PCNI provided further evidence to the court which acknowledged that the wording of the paragraph could be understood to show such a connection, and regretted any confusion or misunderstanding arising from this.

Judicial Communications Office

Mr Justice Treacy said that case law dictated that a decision maker's reasoning must not give rise to a substantial doubt as to whether it had erred in law. He said that the PCNI's concluding statement in paragraph 20 did not set out a reasoned basis as to how or why the panel reached this conclusion and it also appeared to conflate the high risk of re-offending with risk of serious harm. The judge concluded that the PCNI's decision offended the requirement that the reasoning must not give rise to a substantial doubt as to whether the decision maker erred in law and that it was not saved by the subsequent further evidence. He quashed the PCNI's decision.

NOTES TO EDITORS

1. This summary should be read together with the judgment and should not be read in isolation. Nothing said in this summary adds to or amends the judgment. The full judgment will be available on the Court Service website (www.courtsni.gov.uk).

ENDS

If you have any further enquiries about this or other court related matters please contact:

Alison Houston
Judicial Communications Officer
Lord Chief Justice's Office
Royal Courts of Justice
Chichester Street
BELFAST
BT1 3JF

Telephone: 028 9072 5921

Fax: 028 9023 6838

E-mail: Alison.Houston@courtsni.gov.uk