

HSC Legal Studies Crime Report

Introduction:

R v Camilleri Supreme Court (NSW)

Legal Citation: [2021] NSWSC 221

Case Details:

The R v Camilleri NSWSC case involved Jessica Camilleri aged 27, in which she brutally stabbed her mother (Rita Camilleri) to death with seven separate steak knives. On July 20 2019, Jessica Camilleri had killed Rita in her St Clair home (NSW) by stabbing her at least 100 times in the neck and head, culminating in Jessica decapitating her mother and excessively mutilating various parts of the body. Jessica had suffered from mental disorders which made her prone to triggering and lashing out. On July 20th 2020, Jessica had been provoked numerous times during the day including a young relative to which Jessica believed her mother paid too much attention, a man in the streets who looked at Jessica in which she also blamed her mother for “always embarrassing her”, and arguing with a fast-food deliverer to say “I love you” to her. At around 11:40 pm of the same night, a police officer had arrived at the St Clair home and found Rita Camilleri dead and decapitated, the young relative with a deep cut on his face, and Jessica on the footpath drenched in Rita’s blood.

The trial commenced on the 30th November 2020 in the Supreme Court of NSW with Jessica initially being charged with murder and later concluded with the jury’s verdict of guilty to manslaughter instead of murder, which was predicated on the evidence presented of Jessica’s ‘mental disorders’ and impairment of the mind during the killing of her mother including autism and intellectual disability. Jessica was sentenced on March 12th, 2021 for the manslaughter of Rita Camilleri under section 23A of the Crimes Act 1900 (NSW). Justice Helen Wilson sentenced Jessica to 21 years and 7 months imprisonment, 16 years 2 months non-parole period under the Crimes (SP) Act 1999 NSW.

Factors that may have influenced Jessica’s case of the killing of her mother include:

- Psychological factors:

Jessica Camilleri’s case was primarily influenced by her numerous mental disorders including autism and intellectual disability. In 2018, Dr Chaudhary had diagnosed Jessica with intellectual disability, anger management OCD, and severe anxiety. Forensic psychiatrist David Greenberg noted that Jessica’s “primary diagnoses were intellectual disability disorder, autism spectrum disorder and intermittent explosive disorder” (ABC News), thus underpinning that Jessica was prone to triggering and lashing out due to her intermittent explosive disorder. Greenberg further stated that he is “of the opinion that at the time of the incident, she likely had the capacity to understand the events and judge whether her actions were right or wrong,” which emphasises the effect of Jessica’s mental disorders leading to her mother’s killing as she was oblivious of her actions and making her vulnerable to conducting wrongful actions.

- Social factors:

Due to Jessica's past traumas of being "bullied for nearly her entire school life and learn[ing] to deal with her problems through targeted aggression" - (Greenberg), her social life as an adolescent may have drastically affected her mental health and behaviour, thus resulting in Jessica aggressively attacking her mother when provoked. This experience of being a victim of bullying may have caused or added to her mental illness, leading to her to "lose all control" (Greenberg) to simple situations such as being touched, stared at, or being called derogatory statements.

- Provocation:

On the 19th of July, Jessica had received a caution from the police at St Marys Police Station after dialling a stranger over 30 times and telling him that she hoped he got cancer and died. The following day, Jessica had been provoked multiple times in which Jessica had released her rage on her mother. Due to her intermittent explosive disorder, Jessica was susceptible to easily being enraged, thus possibly contributing to the killing of Rita Camilleri.

Reporting and Investigation into the Crime:

On the Saturday night of 20th July 2019 after Jessica had decapitated Rita Camilleri's head; Jessica personally dialled for police and an ambulance. She had admitted to the killing of her mother. At around 11:40 pm, Senior Constable 'Anthony D'Agostino' arrived at the crime scene where he found Jessica "wandering about on the footpath covered in her mother's blood." (Austlii) He directed Jessica to remain still until another officer came and secured the scene and Jessica gave an account of the situation, in which it was recorded as evidence with the officer's body camera. The victim's (Rita) head was found on the footpath of St Clair Avenue and the body was found in her home with the young relative, in which he had lacerations on his face.

The investigation by the police into the killing of Rita Camilleri was predominantly through the wounds and mutilation of Rita's body, and the evidence gathered for Jessica being the perpetrator was through self-confession to the police and expert witness Greenberg (Forensic Psychiatrist). Jessica had admitted to her crime when reporting the account to the police during the phone call and through body cameras. She further gave evidence of a guilty Mens Rea when speaking with Greenberg, as she admitted to not acting in self-defence and describing her actions as "hacking like a butcher". These were all used in court as evidence to support the crown's case.

***Explain* the role of the courts involved:**

R v Camilleri was heard in the NSW Supreme Court, with the state being the crown prosecutor and Camilleri being the defence. The Supreme Court is comprised of 12 jurors, a judge, a court officer, a defence, and the prosecution. Legal personnel including the judge (Justice Helen Wilson), the crown (A McCarthy), and the defence (N Steel), are pivotal components to the court in an adversarial system. Legal personnel have the role of presenting and arguing their case to convince the jury 'beyond reasonable doubt in a criminal case on whether the accused is either guilty or not guilty. The judge serves a vital role in the trial process and sentencing, by presiding over the court, advising the jury of

their duty, and applying the Evidence Act 1995 (NSW) by deeming which evidence is admissible or not. In the *R v Camilleri* case, Justice Wilson had the responsibility of enforcing the Evidence Act 1995, advising the juror of their duties as a juror in the case, and issuing an appropriate sentence of Camilleri as the jury's verdict was guilty of manslaughter. Although the Crimes (SP) Act, served as a statutory guideline for Camilleri's sentence of manslaughter (maximum 25 years imprisonment), Justice Wilson used judicial discretion when deciding her sentence in which judges are entitled to under the doctrine of 'Separation of Powers', where the legislature cannot impose decision making on the judiciary. Justice Wilson's sentence of 21 years 7 months imprisonment showed judicial discretion in the sentencing for Camilleri as Justice Wilson took into account mitigating factors such as Camilleri's mental disorders, aggravating factors including her awareness of her crime ("hacking like a butcher"), and the intention behind the crime as she told forensic psychiatrist (Greenberg) that her actions were motivated by violent horror movies that Camilleri's sister stated that she was 'obsessed' with. When the defence cited s44 of the Crimes (SP) Act in an attempt to reduce Camilleri's non-parole period of 16 years 2 months; Justice Wilson stated "s 44 of the *Crimes (SP) Act*, and the offender urged the Court to do so. That is a discretionary decision for the Court, and in the present circumstances, I do not propose to exercise the discretion in the offender's favour. A finding of that nature would reduce the non-parole period below that which the seriousness of this crime requires." Therefore, judicial discretion is manifested in the case when deciding the most appropriate sentence for Camilleri's crime.

Aggravating and Mitigating Factors:

R v Camilleri concluded with the jury's verdict of guilty to manslaughter instead of murder, based on the factors that Camilleri had serious mental disorders and the cognitive impairment of her mind during her crime. Under the Crimes (Sentencing Procedure) Act 1999 (NSW), manslaughter is liable for up to 25 years imprisonment. Camilleri received a sentence of 21 years and 7 months imprisonment due to Justice Wilson's judicial discretion of considering factors that may have influenced the crime. Mitigating and aggravating factors can extend and deteriorate the severity of a sentence of a crime at par by taking into accounts factors that may make the offender culpable.

Mitigating Factors:

- At face value, Camilleri's impaired psychology and mental disorders including autism, intellectual disability, and intermittent explosive disorder, significantly reduce the moral culpability of her crime. The Mental Health (Forensic Provisions) Act 1990 (NSW) applies to Camilleri by eliminating standard non-parole periods. Camilleri's mental health had already mitigated her initial charges of murder to manslaughter, thus substantially reducing her sentencing period from life sentence and 20 years standard non-parole period to maximum 25-year imprisonment, no standard non-parole period. Due to Camilleri being prone to 'rage attacks' (Greenberg), provocation under s23 of Crimes Act 1900 also dramatically reduced Camilleri's sentence.
- Camilleri's sense of remorse for her crime is also considered a mitigating factor, as the chances of rehabilitation increases if the offender shows regret for their actions. Camilleri immediately pleaded guilty to manslaughter, which operated as

evidence for remorse, but Justice Wilson stated that "remorse may or may not say about rehabilitation are largely irrelevant in the present instance, due to the offender's autism." Thus, merely the early guilty plea serving as a mitigating factor, instead of remorse in Camilleri's situation.

Aggravating Factors:

- Despite having mental issues relating to compulsiveness, during the time of the crime, Camilleri was aware of her immoral actions as she stated that her actions were "hacking like a butcher". Justice Wilson stated that "the reduction in the offender's moral culpability cannot be complete since she well understood the nature of her act, and also well understood how very wrong it was." Due to Camilleri being substantially aware of her 'repulsive' crime, this contributed as an aggravating factor, in which it was seen in her "lengthy" sentence of 21 years 7 months.
- The extent to which Camilleri conducted her crime of stabbing her mother over 100 times with seven different knives and decapitating her head also served as an aggravating factor as it emphasised the signs of malicious intent. The excessiveness of the crime manifested her actions to be further evidence of incapacitation.

Discuss the plea:

Camilleri immediately entered an early guilty plea to manslaughter once the defence became aware that her mental health was only a partial defence. As Camilleri's case was heard at the Supreme Court, after the committal hearing, a discount of 10% was entitled. By citing the *R v Magro* (2020) case, the defence argued that a 25% discount should apply to her as she offered the Crown a guilty plea before the trial to manslaughter. However, because the offer was different from her initial charge of murder, the 25% discount was not applicable.

By Camilleri pleading guilty to manslaughter early in the trial, this effectively alleviated pressure off the court and facilitated efficiency in the trial process. Camilleri argued that her trial "was efficiently conducted, with only few witnesses required to be called, and no issue taken with her responsibility for Mrs Camilleri's death." (Austlii) The benefits of Camilleri's case was that it required less funding for the trial, reduced the time taken, and eased the pressure off correctional centres as Camilleri would be in custody for a shorter period, than if she did not enter an early plea. However, according to Justice Wilson, Camilleri's actions were "as serious an example of manslaughter as there can be." Therefore, as the purpose of correctional centres is for retribution and incapacitation, Camilleri's non-parole period of 16 years 2 months may impose threats to society due to her mental illness, hence being a risk of recidivism.

• Assess the penalty given:

Jessica Camilleri's penalty of 21 years 7 months imprisonment was highly effective in regard to the protection of society and justice for Camilleri's family. Justice Wilson's judicial discretion when deciding Camilleri's sentence, and the defences that were presented, culminated in an effective and reasonable sentence that balanced the rights of both the offender and victim. Camilleri's defence to her case was predominantly based on the status of her mental health during the crime and her social life growing up. Camilleri's mental disorder including autism, intellectual disability, and intermittent explosive disorder, had made her "prone to rage attacks" (Greenberg). Under section 23 of the Crimes Act 1900 (NSW) which states that a person is to be acquitted from murder if the action was due to provocation, and Mental Health (Forensic Provisions) Act 1990 (NSW) which reduces the penalty for offenders with serious mental health issues; Camilleri's sentence for the brutal killing of her mother (Rita Camilleri) was mitigated as she was provoked by her mother due to her "narcissistic personality" (Greenberg), and eliminated the standard non-parole period. The defence further argued for a reduction in her non-parole period by citing the R v Oinonen 1999 (CCA), and R v Magro 2020 (CCA), which asserted that Camilleri should be entitled to a 25% discount as she pleaded guilty to manslaughter before the trial. However, Justice Wilson refuted the argument, stating that her crime was "grave and mutilating depravity" and thus "a stern sentence is called for." The judge further asserted that Camilleri was not able to manifestly show any signs of remorse "due to her autism". Thus, due to the heinous nature of the crime, the final penalty issued to Camilleri was highly effective as the victim's family said "thank you" to the sentence, hence achieving justice for the victim.

On the other hand, due to Camilleri immediately pleading guilty to manslaughter at the Supreme Court, under the Justice Legislation Amendment (Committal and Guilty Pleas) Act 2017, Camilleri received a 10% discount on her sentence. This was ineffective as the chances of rehabilitation is low due to her mental disorders, and also reduces the incapacitation time, thus imposing a threat to society by increasing the chances of Camilleri being released into society after her non-parole period of 16 years 2 months. Despite charges for manslaughter carrying a maximum penalty of 25 years, Camilleri's sentence in the grand scheme effectively achieved justice through the Supreme Court setting a precedent for stern punishments on crimes that are mitigated solely by mental illness defences, and by achieving incapacitation when the chances of rehabilitation may be low.

***Examine* how the law balances the rights of victims and offenders:**

The Australian legal system balances the rights of victims and offenders through the doctrine of 'natural justice/procedural fairness, and the system of consistent and transparent sentencing. Natural justice refers to the right to a fair trial, enshrined by section 80 of the Australian Constitution where a trial "shall be by jury". The Legal Aid Commission Act 1979 (NSW) further balances the right of offenders through the right to legal representation in an adversarial system, thus allowing for an equal opportunity.

The R v Camilleri 2020 (SCNSW) manifested how the law balances the rights for offenders through Camilleri's use of Legal Aid NSW to represent her case, as this showed the offender's right to a fair trial by a jury, and had access to legal personnel which is a part of the principles of justice. Moreover, the law provides rights for offenders who may be disadvantaged due to mental illness, by entitling them certain rights such as a reduced sentence and a lenient verdict. The Mental Health and Cognitive Impairment Forensic Provisions Act 2020 (NSW), serves as a requirement in law, which enforces a special verdict for people who are unaware of their actions due to mental illness. The R v Camilleri case showed the effectiveness through Camilleri's charged being significantly reduced to manslaughter instead of murder, predicated on her cognitive impairment at the time of the crime. Therefore, the law balances the rights of offenders by providing them with a balance in legal representation, and regarding special circumstances for disadvantaged offenders.

Similarly, the law also offsets the right of victims by providing them with an opportunity to express the personal impact of the crime, and appropriate sentences by the judge. The Crimes (SP) Amendment (Victim Impact Statement) Act 2004 (NSW) effectively balanced the right of victims by allowing them to try and convince the jury through the impact of the offender's crime. The R v Hanney 2014 (WWDC) case gave evidence to the effectiveness of VIS as the judge considered the impact statements when sentencing Hanney, thus resulting in Hanney being sentenced to 6 years imprisonment. Furthermore, minimum, and maximum sentences for crimes in the Crimes Act 1900 (NSW) extensively balance the rights of victims as retribution through incapacitation may be achieved in the legal system. The Crimes (SP) Act 1999 outlines all the maximum sentences for crimes, thus preventing judges from using discretion to issue an unjust punishment. The R v Loveridge (2013) case showed the effectiveness of retrospective laws on sentencing. Loveridge had been sentenced to 7 years imprisonment for manslaughter, but after society's attitudes towards the one punch crime, the Crimes and Other Legislation Amendment (Assault and Intoxication) Act 2014, imposed a minimum sentence of 8 years for one-punch deaths, thus Loveridge's sentence being appealed to 13 years and hence balancing the rights for victims through sentences that reflect society's values.

Bibliography:

Mental Health Laws in NSW: the Changes Explained n.d.,
www.hamiltonjanke.com.au, viewed 18 March 2021,
<<https://www.hamiltonjanke.com.au/mental-health-laws-in-nsw-the-changes-explained/>>.

NewsComAu. (2021). *Woman who beheaded mother gets 21 years in prison*. [online] Available at: <https://www.news.com.au/national/courts-law/woman-who-beheaded-mother-gets-21-years-in-prison/news-story/54eea489f1fb50f07f0ec012ebf188ba> [Accessed 18 Mar. 2021].

NewsComAu. (2021). *Woman who beheaded mother gets 21 years in prison*. [online] Available at: <https://www.news.com.au/national/courts-law/woman-who-beheaded-mother-gets-21-years-in-prison/news-story/54eea489f1fb50f07f0ec012ebf188ba>.

Noyes, J. (2021). *“Stern sentence”: Jessica Camilleri gets 21 years jail for decapitating mother*. [online] The Sydney Morning Herald. Available at: <https://www.smh.com.au/national/nsw/stern-sentence-jessica-camilleri-gets-21-years-jail-for-decapitating-mother-20210312-p57a3f.html> [Accessed 18 Mar. 2021].

Sydney court hears Jessica Camilleri prone to “rage attacks”, living with complex mental illness before alleged decapitation murder - ABC News. (2020). *ABC News*. [online] 4 Dec. Available at: <https://www.abc.net.au/news/2020-12-04/psychiatrist-evidence-during-sydney-decapitation-murder-trial/12950336> [Accessed 18 Mar. 2021].

Austlii.edu.au. (2021). *R v Camilleri [2021] NSWSC 221 (12 March 2021)*. [online] Available at: <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/nsw/NWSC/2021/221.html> [Accessed 18 Mar. 2021].

www.abc.net.au. (2020). *Sydney woman who decapitated her mother found guilty of manslaughter*. [online] Available at: <https://www.abc.net.au/news/2020-12-10/jessica-camilleri-guilty-of-manslaughter-after-decapitation/12959956>.

www.judcom.nsw.gov.au. (n.d.). *Mental Health (Forensic Provisions) Act 1990*. [online] Available at: https://www.judcom.nsw.gov.au/publications/benchbks/sentencing/mental_health.html [Accessed 18 Mar. 2021].

