

SUPREME COURT OF QUEENSLAND

CITATION: *R v Griffith* [2026] QCA 111

PARTIES: **R**
v
GRIFFITH, Ashley Paul
(applicant)

FILE NO/S: CA No 283 of 2024
DC No 1447 of 2024

DIVISION: Court of Appeal

PROCEEDING: Sentence Application

ORIGINATING COURT: District Court at Brisbane – Date of Sentence: 29 November 2024 (Smith DCJA)

DELIVERED ON: 12 June 2026

DELIVERED AT: Brisbane

HEARING DATE: 28 May 2026

JUDGES: Bond JA, Gotterson AJA, Cooper J

ORDER: **The application for leave to appeal against sentence is refused.**

CATCHWORDS: CRIMINAL LAW – APPEAL AND NEW TRIAL – APPEAL AGAINST SENTENCE – GROUNDS FOR INTERFERENCE – SENTENCE MANIFESTLY EXCESSIVE OR INADEQUATE – where over about a 20 year period the applicant sexually offended against 69 very young female children committing a total of 307 offences – where there was overwhelming and irrefutable evidence of the applicant’s wrongdoing – where the applicant pleaded guilty, co-operated with police and waived his right to a brief of evidence – where the applicant was sentenced to an effective head sentence of life imprisonment – where the sentencing judge extended what would otherwise have been the statutory default non-parole period of 15 years imprisonment so as to impose a non-parole period of 27 years – whether the sentence was manifestly excessive because of the length of the non-parole period

Barbaro v The Queen (2014) 253 CLR 58; [2014] HCA 2, cited
Cameron v The Queen (2002) 209 CLR 339; [2002] HCA 6, cited
Hili v The Queen (2010) 242 CLR 520; [2010] HCA 45, cited
House v The King (1936) 55 CLR 499; [1936] HCA 40, cited
Ibbs v The Queen (1987) 163 CLR 447; [1987] HCA 46, cited

R v Appleton [2017] QCA 290, cited
R v D [2003] QCA 547, cited
R v Free; Ex parte Attorney-General (Qld) (2020) 4 QR 80; [2020] QCA 58, cited
R v Harris (2000) 50 NSWLR 409; [2000] NSWCCA 469, cited
R v Kalajzich (1997) 94 A Crim R 41, cited
R v Kilic (2016) 259 CLR 256; [2016] HCA 48, cited
R v Lian (2023) 144 SASR 303; [2023] SASCA 122, cited
R v Mahony & Shenfield [2012] QCA 366, cited
R v Maygar; ex parte A-G (Qld) [2007] QCA 310, cited
R v Mizner [2019] QCA 198, cited
R v Morse (1979) 23 SASR 98, cited
R v Robinson [2007] QCA 99, cited
R v SAG (2004) 147 A Crim R 301; [2004] QCA 286, cited
R v SEA [2023] QCA 56, cited
R v SEV; Ex parte Attorney-General (Qld) [2026] QCA 31, cited
R v Sica [2014] 2 Qd R 168; [2013] QCA 247, cited
R v Smith (2022) 10 QR 725; [2022] QCA 89, cited
R v Twala (Unreported NSWCCA 4 November 1994), cited
R v Weldon [2006] QCA 504, cited
The Queen v Friesen [2020] 1 SCR 424, cited
Veen v The Queen [No 2] (1988) 164 CLR 465; [1988] HCA 14, cited
Wong v The Queen (2001) 207 CLR 584; [2001] HCA 64, cited

COUNSEL: S J Cartledge for the applicant
 R M O’Gorman KC, with S J Gallagher, for the respondent

SOLICITORS: Gnech & Associates for the applicant
 Director of Public Prosecutions (Queensland) for the respondent

- [1] **BOND JA:** The applicant is a serial paedophile who, over about a 20 year period commencing in 2003, sexually offended against 69 very young female children. His victims were generally aged between 2 and 5, though one victim could have been as young as only 1 and another victim was aged between 7 and 9.
- [2] All of the applicant’s offending occurred in daycare centres, where, holding a graduate diploma in education, he was employed as a carer for the children. He offended against 65 children in Queensland, across 11 different childcare centres and 4 children in one daycare centre in Pisa, Italy.
- [3] He offended against his victims in many ways, ranging from touching of the victims over and under their clothes to raping them. He kissed some of his victims, including putting his tongue in their mouths or licking their lips. He touched the victims on their legs, their buttocks and their vaginal areas. He rubbed his penis against the faces, vaginal areas and buttocks of his victims. He raped victims by penetrating their labias with his fingers and his penis. He raped his victims by putting his penis in their mouths. He ejaculated on victims including on their faces, stomachs, vaginal areas,

backs and buttocks. The children were offended against whilst awake and asleep. When he offended against them whilst they were awake, he usually positioned them on his lap which allowed him to be more discrete. He also frequently gave the victims an iPad to distract them, if offending against them whilst they were awake.

- [4] His sexual interest in very young female children led to his accessing darknet websites where he could access and download child exploitation material onto his devices. He did that for more than 20 years. The media files which he downloaded depicted prepubescent and pubescent female children aged from 2 to 15 and included images depicting those children engaged in sexual activity including sexual posing, masturbation, vaginal, anal and oral penetration of children by other children and adult males and females.
- [5] The applicant also filmed and photographed his sexual offending against all but one of his own victims, with either a camera or his phone. He transferred that child exploitation material onto his own electronic devices. He uploaded some of the videos of his offending to the darknet via a particular website which allowed for users to upload their own child exploitation material with a view thereby to obtaining access to a broader range of such material themselves.
- [6] The applicant pleaded guilty to 307 offences as follows:
- (a) 15 counts of repeated sexual conduct with a child;
 - (b) 28 counts of rape, comprising 25 counts of digital or oral rape and 3 counts of penile rape;
 - (c) 190 counts of indecent treatment of a child under 16 under 12 under care;
 - (d) 67 counts of making child exploitation material;
 - (e) 4 counts of producing child abuse material outside of Australia;
 - (f) 1 count of distributing child abuse material outside Australia;
 - (g) 1 count of using a carriage service for child pornography;
 - (h) 1 count of possession of child exploitation material.
- [7] The maximum penalty for the counts of repeated sexual conduct with a child and the counts of penile rape was life imprisonment. The other offending (which included some Commonwealth offending) attracted lesser maximum penalties.
- [8] The learned sentencing judge imposed an effective head sentence of life imprisonment. That sentence was imposed in respect of the 15 counts of repeated sexual conduct with a child and the three counts of penile rape. Lesser concurrent sentences were imposed in respect of the remaining 289 counts, including the Commonwealth counts. The applicant had been in custody for 831 days since his arrest on 21 August 2022, and that period was declared as time already served under the sentences. The sentencing judge fixed the date on which the applicant would be eligible for parole as 20 August 2049. By that time the applicant will be aged almost 72.
- [9] The applicant sought leave to appeal against his sentence on the grounds that the sentence was manifestly excessive. The applicant did not, however, suggest that the sentencing judge erred in imposing the head sentence of life imprisonment. His sole

argument was that it was the setting of the 27 year non-parole period which rendered the sentence manifestly excessive, especially given the extent of the applicant's eventual co-operation with police and in the administration of justice. In the event that his argument succeeded, the applicant contended that this Court should re-sentence on the basis of not interfering with the statutory default non-parole period of 15 years pursuant to s 181(2)(d) of the *Corrective Services Act 2006*.

- [10] For reasons which follow, the application for leave to appeal against sentence must be refused.

The sentencing remarks

- [11] It is necessary first to explain the way in which the sentencing judge arrived at the sentence which he imposed.
- [12] The primary judge explained how the applicant's offending came to light. Police investigated a darknet website which provided access to extreme child exploitation material. They identified that a series of videos had been uploaded to the website involving sexual offending against children at a daycare facility. A joint AFP and QPS operation was commenced, the object of which was to identify the person who had uploaded the videos and the children who had been offended against.
- [13] After a lengthy and difficult investigation, police identified the daycare centre and that the applicant was the offender. Search warrants were obtained and the applicant's electronic devices were identified and seized. Police located child exploitation material on the applicant's devices. Amongst such material were photos and videos which he had personally produced as well as photos and videos which had been produced by others.
- [14] The photos and videos produced by the applicant formed the factual basis of the particular counts reflected in the indictment. The sentencing judge took care to identify further detail of the offending, including by summarising what had occurred at each daycare centre. Those details are recorded in his Honour's careful sentencing remarks.¹ It is not necessary to record the nature of the offending in any more detail beyond that which has already been recorded in these reasons.
- [15] The sentencing judge made careful findings about the nature and extent of the applicant's co-operation with the administration of justice consequent upon his arrest by police. Ultimately his Honour concluded that there was significant co-operation with the police in helping to identify the childcare centres and victims. However, given the extent of reliance on that co-operation by the applicant in this Court, some of the more specific findings made by the sentencing judge should be recorded:
- (a) When first arrested the applicant denied involvement in possessing or uploading child pornography and when police told him they believed he was the person who had committed some offences he advised he did not wish to comment further.
 - (b) On the day search warrants were executed, the applicant told police he wished to speak with them again. He made some admissions about uploading child pornography and that he had filmed abuse he had done, but falsely said that it only related to two children. He later changed that estimate to say that he had

¹ See *R v Griffith* [2024] QDC 207, particularly at [27], [34] to [55] and [69] to [71].

abused between 50 and 100 children, although he (falsely) denied that there had been any penetration by him of his victims.

- (c) The applicant participated in interviews with the police on 13 additional occasions, largely between September 2022 and January 2023, with a final interview occurring in July 2023. The interviews occurred over a number of occasions because of interview time constraints.
 - (d) During the interviews, the applicant could largely identify the first name of the children he was asked about and at times their surname or the location the offending took place. However at times he minimised his offending in relation to whether he had offended against a particular child or in relation to the number of children offended against or the ways in which he had offended against them. On some occasions, despite being shown photographs of his victims, he falsely denied offending against them.
 - (e) On most occasions, police already had knowledge of a child victim's first name due to the file structure and naming conventions on the applicant's devices. However, there were occasions when there was very little information to identify a child, where the applicant assisted with providing identifying information. At times, the applicant provided information at a following interview with police, after having more time to think about a question.
 - (f) The applicant's co-operation was able to speed up the process of identifying a child victim prior to police speaking with families; to clarify the correct victim when police were unsure of the child depicted in the material; and to identify locations where offending occurred when the location of offending may not have been clear.
- [16] As has been mentioned, the applicant had offended against victims whilst they were asleep and when they were awake. He told police that he considered that the children he offended against whilst awake were not affected at all and told police they were happily laughing or having conversations. However, during a later interview the applicant accepted that there was the potential his victims might suffer harm later in life.
- [17] The sentencing judge noted the fact and contents of a number of victim impact statements which were tendered by the Crown. He found that the applicant's offending had a significant effect on the lives of many people and caused feelings of guilt to many parents who trusted the applicant and the childcare centres. He found that the applicant's offending had caused and would continue to cause significant harm to his many victims and their families.
- [18] The sentencing judge considered the content of a psychiatric report which was tendered concerning the applicant. The psychiatrist recorded various things which the applicant had told her about himself and his offending and also expressed a number of conclusions which the sentencing judge noted, including:
- (a) The applicant presented with a paedophilic disorder exclusive type females under 12. There was no evidence of any psychiatric conditions, or any developmental disorder or substance use disorder.
 - (b) There were no factors which could explain the applicant's offending. There was no evidence of childhood abuse, severe mental disorder or personality disorder, substance use or other form of criminality.

- (c) The applicant minimised the severity of his offending, had developed cognitive distortions such as the victims did not mind the offending, had identified emotionally with the victims, had an increased sex drive and sex preoccupation and has used sex as coping. It was likely that he lacked empathy for the victims.
- (d) The applicant's risk of reoffending would be high if released into the community. He had not engaged in any treatment and would need to engage in extensive psychological treatment in the form of group interventions to begin with. He may require individual intervention delivered by an experienced forensic psychologist and possibly antilibido medication to reduce deviance.
- [19] On the question of treatment, the sentencing judge noted that the applicant was considered unsuitable for treatment in the community and that there were no suitable programs in the community for addressing the applicant's sexual offending risk. However the most suitable program would be one which is available in a custodial correction centre, namely the High Intensity Sex Offender Program.
- [20] The sentencing judge recorded the submissions which had been made on sentence by the Crown and on behalf of the applicant. In so doing, the sentencing judge demonstrated that he had taken into account the various considerations which were said on each side to be significant in relation to the proper exercise of the sentencing discretion, including in particular:
- (a) The aggravating and mitigating factors which authority had identified as being relevant in assessing offending of the nature of that committed by the applicant, as to which see *R v SAG*.²
- (b) The proper approach to be taken to the assessment of an offender's plea of guilty and other evidence of willingness to facilitate the course of the administration of justice, as to which see s 13 of the *Penalties and Sentences Act 1992* and *Cameron v The Queen*.³
- (c) Further to (b), that the value of the applicant's guilty plea and co-operation must be viewed against the strength of the case against him and the nature of the offending, as to which see *R v Mahony & Shenfield*.⁴
- [21] The Crown had submitted the appropriate sentence was life imprisonment with a non-parole period of at least 30 years. The applicant contended for a head sentence of 25 to 30 years' imprisonment, with the ordinary statutory default eligibility for parole.
- [22] The sentencing judge specifically rejected the applicant's submission in mitigation that "there was no violence nor emotional coercion nor threats" and found that the acts charged did show an application of force and that there was a degree of emotional manipulation of the children. His Honour expressed his conclusion on the significance of the features addressed by the Crown and by the applicant in this way:
- "This was very serious offending in terms of length and scale. The victims were very vulnerable and there was a significant breach of trust. People expect that their children will be protected in childcare centres and this matter will be of significant concern to any parent or indeed any citizen in this State.

² *R v SAG* (2004) 147 A Crim R 301 at [19] – [20].

³ *Cameron v The Queen* (2002) 209 CLR 339 at [11] to [15] and [65] to [68].

⁴ *R v Mahony & Shenfield* [2012] QCA 366 at [52] to [56].

The offences were depraved and committed by a man with a high risk of re-offending. They were planned and recorded. Some of these recordings were uploaded on the internet which preserves some of the offending forever.

The case was an overwhelming one with the offences caught on videos and photos. A conviction was inevitable on most of the counts.

A significant sentence needs to be imposed to reflect the principles of deterrence, denunciation, punishment and community protection.

Whilst [the applicant] did co-operate with the psychiatrist, he made statements which did show a lack of full insight into his offending behaviour and the effect on the victims.

I agree with the defence that there was significant co-operation with the police in helping to identify the childcare centres and the victims.”

- [23] The sentencing judge then turned specifically to the considerations of the appropriate head sentence and the appropriate non-parole period.
- [24] As to the head sentence, the sentencing judge identified relevant authority governing the possibility of the imposition of the maximum penalty, including *Ibbs v The Queen*,⁵ *Veen v The Queen [No 2]*,⁶ *R v Twala*,⁷ *R v Kalajzich*,⁸ *R v Kilic*,⁹ and *R v Harris*.¹⁰
- [25] His Honour expressed his conclusion that the maximum penalty was warranted in the applicant’s case in these terms:

“Having considered all matters and despite the factors of mitigation, in my opinion this is a case of such seriousness or gravity as to warrant the maximum penalty for the following reasons:

- (a) The offending happened over a lengthy period.
- (b) The offending involved many victims.
- (c) Many of the victims were very young and very vulnerable.
- (d) There were many rapes.
- (e) There were a number of maintaining offences.
- (f) There was a significant breach of trust involved.
- (g) He filmed most of this kept it and uploaded some to the dark web. This is a significant aggravating feature here.
- (h) There was planning involved with the offending.
- (i) There has been a significant impact on the families.

⁵ *Ibbs v The Queen* (1987) 163 CLR 447 at pp 451 and 452.

⁶ *Veen v The Queen [No 2]* (1988) 164 CLR 465 at 478.

⁷ *R v Twala* (Unreported NSWCCA 4 November 1994) per Badgery-Parker J with who Finlay and Carruthers JJ agreed.

⁸ *R v Kalajzich* (1997) 94 A Crim R 41 at pp 50-51.

⁹ *R v Kilic* (2016) 259 CLR 256 at [18] and [19].

¹⁰ *R v Harris* (2000) 50 NSWLR 409 per Wood CJ at CL with who Giles JA and James J agreed.

(j) [The applicant] is regarded as a high risk of reoffending.

In these circumstances, I consider that despite the plea of guilty, the co-operation and the absence of previous convictions, that a life sentence is required on the penile rape counts and the maintaining counts.

In my view the factors of denunciation, punishment and deterrence far outweigh the issue of rehabilitation in this matter.”

[26] As to the non-parole period, the sentencing judge correctly identified that the ordinary consequence of the imposition of a life sentence was that the offender would become eligible to apply for parole after serving 15 years of the sentence, but noted that statute conferred a discretion to extend that period. His Honour recognised authority in this Court which discussed the principles informing the exercise of that discretion, namely *R v Appleton*¹¹ and *R v Free; Ex parte Attorney-General (Qld)*.¹² His Honour expressed his conclusion on that issue in these terms:

“In my opinion this is a case where the conduct of [the applicant] is such that the parole period should be extended from 15 years. There are real issues of community protection in this case. As the Crown has submitted this is a case where the principles of punishment, denunciation and community protection overwhelm any mitigation, mitigating issues, and the issue of rehabilitation.

Bearing in mind the number of offences, the large number of complainants, the nature of the offences, the breach of trust and the risk of reoffending, I would have agreed with the Crown’s submission that the non-parole period should be at least 30 years; however I cannot ignore the fact [the applicant] did co-operate with the police in a number of interviews and there has been a plea to an *ex officio* indictment. I consider that some discount should be accorded in that circumstance. I consider the non-parole period should be 27 years.”

Consideration of the applicant’s case before this Court

[27] In the present case the sentencing judge determined that the single sentence which was just in all the circumstances was that the applicant should be sentenced to life imprisonment and that he should serve a minimum term of 27-years’ imprisonment, before becoming eligible for parole.

[28] The applicant does not identify any specific error in that sentence. As has been mentioned, the applicant does not criticise the head sentence of life imprisonment. Given that head sentence, the applicant submits, correctly, that it was appropriate that he get the benefit of any relevant mitigating features at the stage of the judicial determination of the minimum term which he was required to serve. The applicant accepts, as he must, that the sentencing judge did that.

[29] The applicant’s complaint is that he did not get enough benefit for the mitigating features which were present in his case, which he identifies as the assistance which

¹¹ *R v Appleton* [2017] QCA 290 per Sofronoff P with who McMurdo JA and Brown J (as her Honour then was) agreed.

¹² *R v Free; Ex parte Attorney-General (Qld)* (2020) 4 QR 80.

he gave to the investigation in admissions and information and the assistance which he gave to the administration of justice in, not only pleading guilty at an early stage, but in waiving his right to a brief of evidence and proceeding via *ex officio* indictment.

[30] The question for this Court is not whether it would have reached the same result as that reached by the sentencing judge. As a matter of legal principle, the question is whether the result embodied in the sentence is, upon the facts, so unreasonable or plainly unjust, that this Court should infer that in some way there has been a failure properly to exercise the sentencing discretion, even though no specific error can be identified.¹³

[31] In examining that issue this Court must bear firmly in mind the breadth of the sentencing discretion which the sentencing judge was required to exercise and the sentencing principles which inform the flexibility that is to be accorded to a sentencing judge in the exercise of that discretion. On that question, in *R v Smith*¹⁴ this Court explained:

“The duty of a sentencing judge is to arrive at a single sentence which is just in all the circumstances, but which has due regard to *all* of the relevant factors, some of which may pull in different directions and some of which may be inconsistent: ...

The process undertaken by a sentencing judge has been described as a matter of ‘instinctive synthesis’, a phrase explained in *Wong v The Queen* ... in these terms:

‘[T]he task of the sentencer is to take account of all of the relevant factors and to arrive at a single result which takes due account of them all. That is what is meant by saying that the task is to arrive at an ‘instinctive synthesis’. This expression is used, not as might be supposed, to cloak the task of the sentencer in some mystery, but to make plain that the sentencer is called on to reach a single sentence which, in the case of an offence like the one now under discussion, balances many different and conflicting features.’

The nature of the task means that – express legislative provisions apart – there is no particular path that a sentencing judge must follow in order to arrive at the sentence which is just in all the circumstances: *Markarian v The Queen* ... It follows that there is no single correct sentence and that sentencing judges are to be allowed as much flexibility in sentencing as is consonant with consistency of approach and as accords with the statutory regime that applies: *Markarian v The Queen* ...

Where the sentence which is just in all the circumstances involves sentencing an offender to a term of imprisonment, the judge is often also called upon to fix the date on which the offender is eligible for parole: see ss 160B(2), 160B(4) or s 160B(7), ss 160C(2), 160C(3) or s 160C(5), and s 160D(2) or 160D(3) *Penalties and Sentences Act*

¹³ *House v The King* (1936) 55 CLR 499 at 504-505.

¹⁴ *R v Smith* (2022) 10 QR 725, per Bond JA with whom Morrison JA agreed at [8] to [12], references omitted.

1992. By doing so, the judge is making a judicial determination that the circumstances of the offending require the offender to serve no less than the minimum term identified by the date so fixed, without opportunity for parole: *Crump v New South Wales ...*; *R v Watson ...*

The duty of a sentencing judge to take account of all the relevant factors to arrive at a result which takes due account of them all applies to all aspects of the formulation of the sentence, not just to the formulation of the head sentence: *R v Eveleigh ...*. To adopt the language used by Applegarth J, it applies to the sentencing judge’s determination of both ‘the top’ and ‘the bottom’ of the sentence which is just in all the circumstances.”

[32] To similar effect, in *R v SEV; Ex parte Attorney-General (Qld)*¹⁵ this Court recently observed:

(a) at [59], footnotes omitted, emphasis in original:

“It is the duty of a sentencing judge to impose a sentence that is appropriate in *all* the circumstances of the case, having regard to the body of sentencing principles. These circumstances include the *objective* circumstances of the offending (including the nature and seriousness of the offence, and the harm caused to a victim of the offence) as well as the *subjective* factors personal to the individual offender who stands to be sentenced. It is in this context that the administration of criminal law has been said to involve ‘individualised justice’.”

(b) at [62], footnotes omitted, emphasis in original:

“One of the basic principles of sentencing law is that a sentence of imprisonment imposed by a court should never exceed that which can be justified as appropriate or proportionate to the gravity of the crime considered in the light of its *objective* circumstances. Another is consistency: that ‘[I]ike cases should be treated in like manner’.”

[33] The pursuit of consistency is why sentencing judges seek to have regard to what has been done in comparable cases. Sentences in comparable cases are yardsticks against which a sentencing judge can examine a proposed sentence, but without being constrained by the yardsticks.¹⁶ Amongst the reasons why that is so is that each comparable case must be viewed against its own particular circumstances, those circumstances being so varied as to deny the utility of attempting to achieve any mathematical precision.¹⁷

[34] Differences between a sentence imposed by a sentencing judge and sentences imposed in comparable cases may be relevant to the question of appellate intervention in the sentence. But the law is clear that intervention is not justified simply because a sentence is markedly different from sentences imposed in other cases. To the contrary, appellate intervention is warranted only where the difference is such that,

¹⁵ *R v SEV; Ex parte Attorney-General (Qld)* [2026] QCA 31.

¹⁶ *Barbaro v The Queen* (2014) 253 CLR 58 at [41].

¹⁷ *Hili v The Queen* (2010) 242 CLR 520 at [74].

in all the circumstances, the appellate court concludes that there must have been some misapplication of principle, even though where and how might not otherwise be apparent.¹⁸

- [35] The applicant submitted that reference to some previous cases supported the inference of error.
- [36] The applicant pointed first to *R v Maygar; ex parte A-G (Qld)*¹⁹ and to *R v Sica*.²⁰ Maygar was sentenced on two counts of murder, one count of manslaughter and four counts of rape. The offending involved horrific brutality. He was sentenced to life imprisonment on each of the two counts of murder and, on appeal, his non-parole period in respect of those counts was increased to 30 years. Sica was sentenced to life imprisonment with a non-parole period of 35 years for the brutal murder of three siblings in a case that went to trial. Sica had a significant criminal history and displayed a complete lack of remorse. In my view there is no relevant comparison between the offending in either case and the offending of the applicant.
- [37] The applicant referred to other cases of extreme and depraved violent sexual offending upon clearly distressed complainants, where the offenders had received lengthy sentences but without receiving extended non-parole periods.²¹ In some of the cases the actual sexual violence involved was more serious and impactful than the applicant's offending conduct and the victims were close relatives of the offender. But again, the factual differences between the offending in those cases as compared with the sheer volume and length of time involved in the applicant's case negative their utility as relevant comparators. One case, *R v D*,²² had some factual similarity. There the offender had molested more than 62 girls over a 28 year period, including his sister, his daughters, his niece and his cousin's children. But his sentence included a sentence of indefinite duration and provided no assistance for the issue which arises in this case.
- [38] There being no assistance to be gleaned from comparative cases, it becomes necessary to return to first principle. This Court must have regard to the application of ordinary sentencing principle to seek to determine whether there is merit in the applicant's argument that the impugned outcome is so unreasonable and plainly unjust as to bespeak error. That assessment requires a careful consideration of all the matters which are relevant to fixing the sentence,²³ including the maximum penalty for the relevant offending, where the objective circumstances of the offending sit in the scale of seriousness of crimes of that type, and the personal circumstances of the offender, including the mitigating features.²⁴
- [39] The applicant was ably represented by counsel, who presented a professional case on his behalf which was of great assistance to this Court. Nevertheless, having considered all the arguments so advanced, I am unable to reach the conclusion that

¹⁸ *Wong v The Queen* (2001) 207 CLR 584, 605 at [58].

¹⁹ *R v Maygar; ex parte A-G (Qld); R v WT; ex parte A-G* [2007] QCA 310.

²⁰ *R v Sica* [2014] 2 Qd R 168.

²¹ *R v D* [2003] QCA 547; *R v Weldon* [2006] QCA 504; *R v Robinson* [2007] QCA 99; *R v Mizner* [2019] QCA 198; *R v SEA* [2023] QCA 56.

²² *R v D* [2003] QCA 547.

²³ *Hili v The Queen* (2010) 242 CLR 520 at [60].

²⁴ *R v Morse* (1979) 23 SASR 98 at 99 per King CJ, cited with approval in *R v Alt* [2013] QCA 343 per Morrison JA (with whom Gotterson JA and North J agreed) at [103].

the choice made by the sentencing judge bespeaks error. To the contrary, in my judgment the sentencing judge was correct to accept the prosecution submission that the factors of denunciation, punishment and deterrence far outweighed the issue of rehabilitation. The applicant's case tended to understate the harm caused by offending of this nature and to overstate the mitigation value of such co-operation as an offender faced with an overwhelming case determined to give to authorities.

- [40] The true position is that it is difficult to overstate the extent of the harm wrought by the applicant over the 20 years of his disgraceful offending.
- [41] The applicant has created a widening gyre of grave hurt and trauma.
- [42] At the centre and most directly affected were his child victims. His role was to care for them. Rather than do so, he chose time and time again to offend against them. His offending is likely to cause serious emotional and psychological harm to his victims; harm which is likely to affect their normal psychosocial development, including their relationships with their families and caregivers and their relationships with future partners. It has already done so for some of his victims, as some of the victim impact statements evidence. But experience of child sex offending and its consequences both in Australia and overseas is that harm of this nature may not manifest immediately but may emerge at later stages of the victims' lives.²⁵
- [43] Further out but no less directly affected were the parents of his victims. They were secondary victims of the applicant's crimes. The applicant betrayed the trust which they placed in him, leaving them suffering from undeserved but understandable guilt for having trusted him. Further, the parents now have had to bear the brunt of the emotional and financial cost of helping their children to cope with finding out what has been done to them and then to deal with the emotional and psychological sequelae of having done so. That cost is likely to continue into the future. The victim impact statements spoke movingly of the hurt suffered by the parents of the applicant's victims and their anguish as to what the future might hold for their children.
- [44] Further out still but no less real is the harm the applicant has caused to the community at large. His conduct has corroded trust in childcare institutions and inevitably wounded the people who once worked alongside him. But the sexual violence he inflicted on children has ongoing other costs such as the social problems that sexual violence against children causes, the costs of state intervention, and the economic impact of medical costs, lost productivity, and treatment for pain and suffering.²⁶
- [45] The child victims, their parents and the community at large were entitled to be protected from offending of this nature. It must be denounced in the strongest terms. It deserves condign punishment. It calls for a sentence with a very significant deterrent effect.
- [46] It is true that the applicant eventually co-operated with authorities. He also submitted a letter of apology and some character references. The sentencing judge recognised the existence of that material. But the co-operation was co-operation in the face of overwhelming and irrefutable evidence of the applicant's wrongdoing, he having

²⁵ See *R v Lian* [2023] SASCA 122 and in particular Appendix A – Extracts from *The Queen v Friesen* [2020] 1 S.C.R. 424 (Supreme Court of Canada) and Appendix B - Extracts from vol 3 of the Final Report of the Royal Commission into Institutional Responses to Child Sexual Abuse (2017).

²⁶ *The Queen v Friesen* [2020] 1 S.C.R. 424 at [64].

filmed it and kept evidence of it on his own devices. The letter of apology from a man who even after his exposure exhibited only partial insight into his offending was apparently not given much weight. Although the sentencing judge took into account the submissions which had been made that the applicant was remorseful, he did not make any positive finding of remorse and must be taken to have assessed the mitigating features upon which the applicant now relies for their utilitarian value only. It is not suggested that there was any error involved in his making no positive finding concerning remorse.

- [47] It would have been wrong to afford the applicant no benefit for the value of his cooperation with the administration of justice. It is possible (though by no means certain) that some judges may have given the applicant a little more benefit than did this sentencing judge. But there is no single correct sentence. I am not persuaded that the sentencing judge permitted the factors of denunciation, punishment and deterrence to overwhelm the proper exercise of his sentencing discretion. In my view the exercise of the sentencing discretion to require the applicant to serve a minimum period of 27 years' imprisonment was within the bounds of a proper exercise of the sentencing discretion.

Conclusion

- [48] I would refuse the application for leave to appeal against sentence.
- [49] **GOTTERSON AJA:** I agree with the order proposed by Bond JA and with his Honour's reasons for it.
- [50] **COOPER J:** I agree with Bond JA.