



Summary of Judgment

KALALA v THE QUEEN

[2017] VSCA 223

30 August 2017

The Court of Appeal (President Maxwell, Justice Redlich and Justice R Osborn) today dismissed the appeal against sentence of Mr Balenga Kalala.

Mr Kalala pleaded guilty to incitement to murder after he hired men to kill his wife while she was overseas. The men kidnapped his wife, requested more money and told him that they had killed her before setting her free. Mr Kalala told her family back in Australia that she had died in a terrible accident. He was sentenced by the Chief Justice to nine years' imprisonment. He appealed this sentence on the basis that it was manifestly excessive.

The Court of Appeal held that the sentence was within range given the circumstances of the case. They were of the view that inciting the murder of a partner is an extreme form of family violence and sentences imposed for such offences should reflect the community disquiet over violence towards partners or former partners.

President Maxwell and Justice Redlich held that current sentencing practices for serious cases of incitement to murder were inadequate given the objective gravity of the offending. They held that sentencing standards for incitement to murder should increase so that they more adequately reflect that the offender has intended that a victim be killed and taken active steps to bring that death about. They stated that the disparity between sentencing standards for conspiracy to murder and incitement to murder could not be justified.

NOTE: This summary is necessarily incomplete. It is not intended as a substitute for the Court's reasons or to be used in any later consideration of the Court's reasons. The only authoritative pronouncement of the Court's reasons and conclusions is that contained in the published reasons for judgment.