

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
CRIMINAL DIVISION

Not Restricted

S ECR 2021 0218

DPP

Crown

v

ABDULLAH EL NASHER

Accused

JUDGE: Beale J
WHERE HELD: Melbourne
DATE OF HEARING: 10 November 2023
DATE OF SENTENCE: 28 November 2023
CASE MAY BE CITED AS: DPP v El Nasher
MEDIUM NEUTRAL CITATION: [2023] VSC 694

CRIMINAL LAW - Sentence - Murder - Intentionally causing serious injury (ICSI) - Prohibited person using firearm - Prohibited person possessing firearm - The offender (D) shot two victims (V1 & V2) outside a boxing venue after arguments between D's group and the victims' group inside the boxing venue - D ran a trial, arguing lack of intent and self-defence - D convicted by the jury of murder re V1 and ICSI re V2 but was acquitted of attempted murder re V2 - D pleaded guilty to the firearms charges, the latter relating to D's brandishing of the gun earlier that day - Whether D's intention when firing shots was an intention to kill or an intention to cause really serious injury - Whether D formed relevant intent just before shooting or at an earlier stage - Whether D fired shots in excessive defence of self or another - Standard sentence murder - D sentenced as serious violent offender re ICSI - *R v Elliot & Fares* [2022] VSC 554 - *DPP v Gonzalez* [2022] VSC 331 - *R v Kilik* [2016] 259 CLR 256 - *DPP v Lee* [2023] VSC 437 - *Mohamed v R* [2022] VSCA 136 - *R v Pan* [2021] VSC 703 - *DPP v Rider & Ong* [2023] VSC 466 - *Surtees v The King* [2023] VSCA 42 - *R v Wilio* [2022] VSC 86 - *Crimes Act 1958*, ss 16 and 321M - *Firearms Act 1996*, s 5 - *Sentencing Act 1991*, ss 5, 5B, 6AAA, 11A(1)(b) and 11(4).

<u>APPEARANCES:</u>	<u>Counsel</u>	<u>Solicitors</u>
For the Crown	Ms S Thomas with Ms A Haban-Beer	Office of Public Prosecutions
For Abdullah El Nasher	Mr D Sheales with Ms S Seoud	Stephen Andrianakis and Associates

CIRCUMSTANCES OF OFFENCES

- 1 Abdullah El Nasher, you stood trial on three charges: Charge 1, the murder of Benjamin Togiai; Charge 2 the attempted murder of Omar Bchinnati; and, in the alternative, Charge 3, intentionally causing serious injury (ICSI) to Mr Bchinnati. The jury found you guilty of Charges 1 and 3 and not guilty of Charge 2. The jury found your alleged co-offender, Osamma Allouche, not guilty on all charges. You subsequently pleaded guilty to the offences of prohibited person possessing a firearm and prohibited person using a firearm. The maximum penalties for these offences are as follows: life imprisonment for murder; 20 years' imprisonment for ICSI; and 10 years' imprisonment for both firearm offences. All these offences relate to events on 1 March 2019, to which I will now turn, in chronological order.
- 2 At approximately 8am on 1 March 2019, you attended at Epping Smash Repairs at 6 Buch Avenue, Epping, a business operated by your brother, Ali. The business was not open, there having been two fires at the premises not long beforehand, both arsons or suspected arsons. When you parked your Mercedes in the driveway outside the gate, a man named Marinko Vrljic, who owns several factories in the street, was standing talking to someone outside a neighbouring property. He watched you as you entered the property at No. 6. You eventually went over and spoke to Mr Vrljic through the wire fence. Mr Vrljic says you said to him 'What do you want?'. Mr Vrljic says he told you he was just waiting for somebody. During your conversation with Mr Vrljic, you took out a pistol and, to quote the prosecution summary, you were 'sliding the top off the pistol and pushing bullets from the top of the firearm'. You identified yourself as Ali's brother and said to Mr Vrljic, as you were racking the pistol, 'where I come from, this is how we do business'. I note that Mr Vrljic told police you did not point the gun at him and he did not feel threatened by what you were doing with the gun. In relation to this incident, you are to be sentenced today for the offence of being a prohibited person in possession of a firearm.
- 3 It might be said that the words 'this is how we do business' were borne out later that

day when you attended a 'Big Time Boxing' event at the Melbourne Pavilion, which is located on the corner of Racecourse Road and Stubbs Street in Kensington.

- 4 The event commenced at approximately 6:30pm. The main fight was scheduled to take place at approximately 10pm. Over 1,000 people attended. Patrons were seated at numbered tables.
- 5 You attended the event shortly after 8pm with your then partner, Brittany McGuire, her friend, Shae Pericic, two of your brothers, Khalid and Ali, and a Mathew Myko. You were joined later in the evening by Mathew Myko's brother, Mikhael, and Osamma Allouche. Your group was seated on Table 28. A couple who did not know your group, Marcus Wilkinson and Madeline Bush, were already seated at Table 28 when you arrived.
- 6 Marcus Wilkinson noticed that a group of men on a nearby table, which was probably Table 64, began taunting and abusing your group. Your group returned the abuse. When you gave evidence at your trial, you admitted that you recognised one of the people on Table 64, namely, Omar Bchinnati.¹
- 7 You also admitted at your trial that you went back out to your Mercedes, which was parked in an alleyway off Stubbs Street, and got your pistol. CCTV footage from the Melbourne Pavilion shows that you did this at approximately 8:17pm. You rejoined your group at Table 28 with the gun concealed in a man bag, which both Mr Wilkinson and Ms Bush said you were clutching.
- 8 The exchange of abuse between your group and the group at Table 64 continued. Whilst it is likely that Mr Togiai was also on Table 64, the evidence does not indicate whether he participated in the exchange of abuse.
- 9 As the evening wore on, you were joined at your table by Mikhael Myko and Osamma Allouche, both of whom had a loaded firearm.
- 10 Within a short time of Allouche arriving, you and Allouche went over to Table 64 and

¹ Trial Transcript, 1157.

had words with the men on that table. At approximately 9:39pm, Marcus Wilkinson took a photo of you and Allouche over at Table 64. At your trial, you testified that the men on Table 64 were threatening you. Your brother Khalid encouraged you to return to your table, which you did.

- 11 Madeline Bush testified that when you came back to Table 28, you said, two or three times, 'You are never safe'. She also testified that other members of your group laughed at you and told you to be quiet.²
- 12 At approximately 9:46pm, CCTV footage captured you and Allouche exiting the Melbourne Pavilion together.
- 13 At approximately 9:53pm, CCTV footage captured you and Allouche re-entering the foyer, you now wearing the baseball cap that Allouche had been wearing. In your testimony, you said you did not have a reason for putting on Allouche's cap.³ Under cross-examination, you denied that you put it on to try and disguise or conceal your face.⁴
- 14 You met some people inside the foyer (people who you testified were old friends) and, instead of returning to Table 28, you turned around and walked outside again with them. You remained outside the Melbourne Pavilion thereafter. Allouche came outside too, although he soon returned to a ringside position inside where he watched on as your group and then the group from Table 64 went outside.
- 15 It was approximately 9:59pm when members of your group and the other group congregated out the front of the Melbourne Pavilion. The CCTV footage suggests there was continued verbal exchanges outside between the two groups.
- 16 By that time, the CCTV footage showed that you had moved to the other side of Stubbs Street and were at least 25 metres south of the entrance of the Melbourne Pavilion.

² Trial Transcript, 301.

³ Trial Transcript, 1164.

⁴ Trial Transcript, 1254.

Whilst you were standing there, talking to another male, you were approached by Allouche. After a very brief exchange between the two of you, Allouche walked back up Stubbs Street towards the entrance of the Melbourne Pavilion. You testified that you simply told him to tell the boys that it was time to leave.⁵ In the absence of any corroboration, I am not satisfied on the balance of probabilities of the truthfulness of that claim. Overall, I did not find you to be a credible or reliable witness.

- 17 Another male, walking a dog south on Stubbs Street, walked past you at approximately 10:01pm. The CCTV footage suggests he interacted with you. You testified that he said 'I think they're punching on out the front.'⁶ Again, and for the same reasons, I am not satisfied on the balance of probabilities of the truthfulness of that claim. I also note that the CCTV footage did not capture a punch-on taking place outside the Melbourne Pavilion.
- 18 Within a few seconds of the man and his dog walking past you, you ran up and across Stubbs Street, went between two vehicles parked near the entrance of the Melbourne Pavilion, fired two shots, took a few steps back, fired another three shots, moved forwards and up onto the footpath, then retreated between the vehicles, as Allouche, who was on the roadway behind a van, came forward and fired one shot towards the footpath. Then the two of you ran south on Stubbs Street. There were approximately 20 to 30 people outside the Melbourne Pavilion when you opened fire.
- 19 Two of your five shots hit people. Benjamin Togiai was shot in the chest. He stumbled south along the footpath before collapsing and dying. Omar Bchinnati was shot once in the upper left thigh.
- 20 At your trial you claimed that you acted in lawful self-defence when you fired your pistol five times within the space of about three seconds. You testified that you ran up the street because you believed there was a punch-on outside the Melbourne Pavilion and that you only fired your gun after two men pointed guns at you as you moved between the two vehicles towards the pedestrians on the footpath. Clearly the

⁵ Trial Transcript, 1161.

⁶ Trial Transcript, 1162.

jury rejected your defence of self-defence. There was no independent evidence that supported it. On the contrary, there was independent evidence which supported your role as being that of an aggressor, especially the CCTV footage of you moving boldly up onto the footpath after firing your five shots, rather than trying to get away. It is true that a man named Joseph Abouchaya, who may have been associated with the Table 64 group, produced a gun when he was out on the footpath, but the CCTV footage which captured him holding the gun, and moving towards the front door of the Melbourne Pavilion, is consistent with him taking that gun out only after you opened fire and then retreating to what he hoped would be comparative safety inside the Melbourne Pavilion. As it turned out, when he entered the foyer of the Melbourne Pavilion with his gun drawn, he was shot (not fatally) by Mikhael Myko, who was still inside the venue.

21 I find that when you ran up the street towards the Melbourne Pavilion it was your intention to fire your gun at people from the group who had been on Table 64, and you were acting in retaliation for what had occurred earlier in the evening between your two groups. I reject your counsel's written submission that your offending on the night of 1 March 2019 was 'a split second reaction', but neither do I accept the prosecution's submission that your intention to shoot was already formed when you first took up a position on the western side of Stubbs Street, south of the entrance of the Melbourne Pavilion. Circumstances of aggravation must be proven beyond reasonable doubt, and there is room for doubt on that score.

22 What was your intention when you fired those five shots in rapid succession? Both an intention to kill and an intention to cause really serious injury suffice for the offence of murder. However, nothing short of an intention to kill suffices for the offence of attempted murder. The jury found you not guilty of the attempted murder of Mr Bchinnati. In other words, they were not satisfied that you intended to kill him. It would be inconsistent with that verdict to find that you intended to kill Mr Togiai, given the rapidity with which you fired your shots. As conceded by the prosecution, it is unreal to suppose that your intention changed whilst you were firing your shots.

Accordingly, I find that when you fired at Mr Togiai and Mr Bchinnati you did so with the intention of causing really serious injury.

23 After you ran off, you got into your Mercedes and reversed it out of the alleyway into Stubbs Street. Your two brothers, Khalid and Ali, and Mikhael Myko jumped in the car and you drove away.

24 Eventually, at approximately 11:31pm, you returned to your apartment in Port Melbourne driving a Toyota Camry registered in Allouche's mother's name. You had on different clothes to those you had been wearing at the Melbourne Pavilion. You pulled your jacket up in a lame attempt to try and conceal your face from the CCTV cameras at your apartment block. You came and went from the building a number of times before finally driving away.

25 You fled to New South Wales but were arrested there on 8 March 2019 and brought back to Victoria on 12 March 2019.

Victim Impact Statements

26 Mr Togiai and Mr Bchinnati were your direct victims, but there were other indirect victims. Victim impact statements were made by the following people: Mr Togiai's former partner, Shae-Maree McCoullough; his daughter, Alyssa (now aged eight); his mother, Ruth; his father, Faatau; his sisters, Jolene and Sharon; his nieces, Tayla and Dakota Ioane; his cousin, Geraldine Faaeteete; his friend, Andrew Keown; and a witness to the events, Alana Luppi.

27 No victim impact statements were made by Mr Bchinnati or his family or friends.

28 Mr Togiai's family and friends are devastated by his death. Their suffering is ongoing. Indeed, they foresee no relief. It causes them to distance themselves from others. They struggle daily with fear and anxiety. There is a terrible void at their family gatherings. What should be times of family celebration are now times when their sense of loss is made even more acute.

29 And, of course, by your violent actions you have robbed a little girl of a loving father.

You lost your father when you were quite young. Perhaps that gives you some insight into the tragedy for which you are responsible. But your father died from natural causes. He was not gunned down in a public place, as happened to Alyssa's father.

30 The trauma is not limited to Mr Togiai's family and friends, as indicated by Ms Luppi's statement. It is unsurprising that the violence perpetrated by you in the vicinity of a crowd of people would traumatise others who witnessed it, or the immediate aftermath of it. That is why the setting of these shootings – a crowded public thoroughfare – is a circumstance of significant aggravation.

Objective Seriousness of Offending

31 There is a spectrum of seriousness for any given offence. Some examples of an offence are worse than others. It falls to me, pursuant to High Court authority,⁷ to assess each offence committed by you, and determine where it sits on the spectrum of seriousness for that offence.

32 I consider yours to be a mid-range example of the offence of murder rather than an upper-range example, because I am not satisfied that there was more than limited premeditation and planning.⁸ Although you armed yourself with a gun approximately an hour and a half before you used it, I am not satisfied beyond reasonable doubt that you decided to go on the attack with that gun until you started running up Stubbs Street. Your decision to shoot was not a 'split second decision', as your counsel would have it, but we are talking about premeditation of less than 16 seconds. The fact that this murder occurred in what was a relatively busy public place, and you fired multiple shots, means it cannot reasonably be viewed as a low-range example of the offence of murder.

33 I view your offence of intentionally causing serious injury as also a mid-range example of that offence, and for essentially the same reasons. Consistent with the jury's findings, I am satisfied that it was your intention to cause really serious injury when

⁷ *R v Kilik* [2016] 259 CLR 256, 266 [19].

⁸ The prosecution's written submission that it was a high-range example of murder was predicated on the assumption of a finding of greater premeditation and planning.

you fired all five shots, which means that even though the bullet only struck Mr Bchinnati in the upper thigh, the offence cannot reasonably be viewed as a low-range example of that offence.

34 I view the offence of prohibited person using a firearm to be an upper-range example of that offence, because of the public setting in which you discharged the gun, not once but five times. However, the sentence to be imposed on that charge will be wholly concurrent with the sentences on Charges 1 and 3 because, as accepted by the prosecution, to do otherwise would amount to double punishment for the same acts.

35 I view the offence of prohibited person possessing a firearm to be a mid-range example of that offence. Not only did you have the gun in your possession, but it was loaded with ammunition and you produced the gun in the presence of Mr Vrljic. However, you did not point the gun at Mr Vrljic and he did not feel threatened by you. There will be a measure of cumulation in respect of the sentence imposed on this offence because it was a separate incident, even though it occurred on the same day as the shootings.

CIRCUMSTANCES OF OFFENDER

36 I turn now from the circumstances of your offences to your personal circumstances.

37 You were born in Melbourne on 29 February 1992, making you 27 at the time of the offences and 31 now. Your parents had eight children and you are the second youngest child of their union.

38 In 1999, when you were in grade 1, aged seven or eight, your father unexpectedly and sadly died from a heart attack. A number of your referees believe your father's untimely death to have had a lasting and deleterious effect upon you.

39 You completed year 11 at Brunswick High School before joining the workforce. You completed a three-year apprenticeship as an electrician with a company called Y-Tech. You did the TAFE component of your training at Preston NMIT. You went on to work as a fully qualified electrician, registering as a sole trader in 2011 when you were aged

19 or 20.

Antecedents

- 40 You were 21 when you first came to the attention of the courts. In April 2013, you appeared at Sunshine Magistrates' Court and then Melbourne Magistrates' Court where you were fined for driving related offences. In July 2013, for dealing with suspected proceeds of crime and possession of ketamine, Melbourne Magistrates' Court placed you on an undertaking to be of good behaviour with a condition that you participate in a drug rehabilitation program.
- 41 You received your first term of imprisonment on 5 September 2013 from the County Court for intentionally causing injury and dangerous driving. It was a total effective sentence of imprisonment of 14 months with a non-parole period of six months.
- 42 In November 2013, you were fined for driving offences and possession of cocaine and anabolic steroids. There was then a break in your Victorian court appearances until 2017, but during that period you came before a court in New South Wales where you received your second sentence of imprisonment. On 26 February 2016 at Goulburn Local Court, when you were aged 23, you received a total effective sentence of 16 months' imprisonment with a non-parole period of 12 months for offences which included 'police pursuit – not stop – drive at speed' and possession of drugs.⁹
- 43 Your brother, Ali, opened a panel beating shop in 2016 – it is not clear on the materials available to me whether this was Epping Smash Repairs – and you went to work for him after your release from prison in New South Wales.
- 44 Unfortunately, your appearances before Victorian courts resumed after your return from New South Wales. There were Magistrates' Court appearances in March 2017, February 2018 and November 2018, and February 2019, mostly for driving related offences.
- 45 On 22 February 2019, just one week before the current offences, you were released by

⁹ The commencement date of those sentences was backdated to 9 November 2015.

the Melbourne Magistrates' Court on a Community Corrections Order (CCO) for two years for offences which included dangerous driving, reckless conduct endangering life, reckless conduct endangering serious injury and possessing cartridge ammunition without a licence or permit.

46 That your violent offending on 1 March 2019 was committed so soon after you were placed on a CCO is another significant circumstance of aggravation. The fact that you were placed on that CCO for offences which involved putting people in harm's way and included possessing cartridge ammunition is also worthy of note.

47 You were arrested for your current offending on 8 March 2019 in New South Wales. You have been in custody continuously since that time.

48 At the time of your arrest, you were in a relationship with Brittany McGuire. That relationship was of several years standing. Not surprisingly, given your changed circumstances, you are no longer a couple. It was not suggested that you have any children.

49 During your time on remand, prison life was made much harsher by anti-COVID measures implemented by Corrections. The Court of Appeal acknowledged this fact of life for the Victorian prison population in a number of cases, including *Surtees v The King*,¹⁰ where the plurality at [10] described prison conditions during the pandemic as 'significantly more punitive'.¹¹

50 You have undertaken a number of courses whilst on remand, including a drug rehabilitation course. Reports and certificates verifying your involvement in these courses were tendered by your counsel at your plea hearing.

References

51 Whilst in prison, you have continued to receive strong support from your family with whom, as the references make clear, you have a very close relationship. References

¹⁰ [2023] VSCA 42.

¹¹ I note that Corrections has advised that you have accumulated a total of 298 emergency management days as part of the various restrictions placed upon you during your time on remand.

were provided for you by the following family members: your mother, Ahida, who is in poor health; your sisters, Fatma, Faten, Wafaa and Amoun; and your nieces, Asmat and Ahida Allouche.

52 All of these references depict you as an integral member of your extended family and your absence from the family is greatly felt. Your mother and sisters also praise you for the emotional and financial support you have provided your mother over many years as she has battled ill health.

53 Whilst some of the references assert your remorse for your actions, those assertions are undermined by mention of your claim that you were only acting in self-defence, a claim rejected by the jury. Regrettably, I am not satisfied that you are truly remorseful for your actions, as opposed to being sorry for yourself and the hardship your incarceration has visited upon your own family. Had you pleaded guilty, I may have taken a different view. I hasten to add that you are not to be punished for running your trial – that was your right – but you ought to understand that it makes it difficult for me to give much weight to your expressions of remorse. I hope I am wrong and that you are truly remorseful for the suffering you have visited upon your victims, both direct and indirect.

Prospects of Rehabilitation

54 In all the circumstances, I am prepared to accept your counsel's submission that your prospects of rehabilitation are reasonable. You are still relatively young and your criminal antecedents, though significant, are not extensive, comparatively speaking. You have a large family who are very supportive of you. You have a reasonable work record.

COMPARABLE CASES

55 I have had regard to a number of other sentencing cases in working out what I consider to be appropriate sentences to impose on you. Those cases – the names of which appear in the footnotes of these sentencing reasons¹² – provided me with some

¹² *R v Elliot & Fares* [2022] VSC 554; *DPP v Gonzalez* [2022] VSC 331; *DPP v Lee* [2023] VSC 437; *R v Pan* [2021] VSC 703; *DPP v Rider & Ong* [2023] VSC 466; *R v Wilio* [2022] VSC 86.

assistance, but they also highlight the fact that each case is unique. There is little to be gained from a recitation of the circumstances of those other cases other than to say they were all shootings and the total effective sentences imposed varied from life imprisonment down to 24 years' imprisonment and the non-parole periods varied from 29 years' imprisonment down to 16 years' imprisonment. Some of the offenders – Gonzalez, Pan, Lee and Rider – received significant discounts for pleas of guilty.

SUMMARY OF AGGRAVATING AND MITIGATING FACTORS

56 It is convenient at this point to summarise what I consider are the aggravating and mitigating factors in your case.

57 The aggravating factors are these:

- You were on a recently imposed CCO at the time of your offending;
- You were getting about in public with a loaded pistol on 1 March 2019 despite being a prohibited person;
- You opened fire outside a public venue in the vicinity of a crowd of people;
- You fired multiple shots, albeit in quick succession; and
- You fall to be sentenced as a serious violent offender on the charge of intentionally causing serious injury.

58 The mitigating factors are these:

- You were only 27 at the time of your offending, relatively young;
- The offences against Mr Togiai and Mr Bchinnati involved limited premeditation;
- You have a limited criminal history. The longest sentence of imprisonment you have previously received was 16 months' imprisonment with a non-parole period of 12 months;
- You have endured harsher prison conditions than normal during the time you have been on remand because of the measures implemented by Corrections to prevent the spread of COVID-19 through the prison population;
- There has been a delay in the finalisation of your matter, in part because of COVID-19;

- You have reasonable prospects of rehabilitation; and
- You pleaded guilty to the firearms charges.

SENTENCE

59 Your counsel submitted that I should not impose a crushing sentence, that is, one which would destroy in you any expectation of a useful life after release. He referred me to what the Court of Appeal said in that regard in *Mohamed v R* at [76]–[77].¹³ In working out the sentences I will be imposing on you, I have borne in mind the Court of Appeal’s remarks and endeavoured to strike an appropriate balance between just punishment, denunciation, general and specific deterrence on the one hand, and the promotion of your rehabilitation (which is in the community’s interests as well as yours) on the other.

60 Mr El Nasher, please stand.

61 For the offence of murdering Benjamin Togiai, I sentence you to 27 years’ imprisonment. This is the base sentence. That sentence is higher than the standard sentence for murder (which is 25 years’ imprisonment), but having regard to all the circumstances referred to above, I consider 27 years to be appropriate.

62 For the offence of intentionally causing serious injury to Omar Bchinnati, I sentence you to eight years’ imprisonment. I order that six years of that sentence be concurrent with the base sentence. My order for substantial concurrency flows from the fact that

¹³ In *Mohamed v R* [2022] VSCA 136 at [76] to [77], the Court said this:

It follows, in our view, that there is no separate sentencing principle prohibiting the imposition of a ‘crushing’ sentence. Rather, the question arises as part of the sentencing court’s necessary consideration of how best to promote the offender’s rehabilitation. The objective of rehabilitation is central to the sentencing process, albeit that it is often in tension with other sentencing objectives which must also be served by the sentence imposed.

In a case like the present, the need to avoid a crushing sentence is a very significant part of the totality analysis. Their inter-relationship was explained in *Director of Public Prosecutions v Alsop*,^[63] where this Court said:

The totality principle has two limbs. First, a sentencing judge must ensure that the aggregation of the sentences appropriate for each offence are a just and appropriate measure of the total criminality involved. Second, the overall sentence should not be ‘crushing’ in the sense that it would destroy any reasonable expectation of a useful life after release. The critical question then is whether after allowing for mitigating circumstances the total sentence, including the parole sentences, reflects what is appropriate for the overall criminality of the convicted person.

the two shootings were really part of the one incident and I need to give effect to the totality principle.

- 63 On the charge of prohibited person using a firearm, I sentence you to three years' imprisonment. I order that this sentence be wholly concurrent with the base sentence and all other sentences.
- 64 On the charge of prohibited person possessing a firearm, I sentence you to one year of imprisonment. I order that three months of that sentence be cumulative on the base sentence and all other sentences.
- 65 The total effective sentence is therefore 29 years and three months' imprisonment.
- 66 I order a non-parole period of 22 years.¹⁴
- 67 But for your plea of guilty on the firearms charges, I would have imposed a total effective sentence of 30 years' imprisonment and a non-parole period of 23 years.
- 68 I declare that you have served 1,726 days by way of presentence detention.

¹⁴ The non-parole period for a standard sentence murder must be at least 70% of the head sentence, unless the court considers it is in the interests of justice to otherwise order: *Sentencing Act 1991*, ss 11A(1)(b) and 11(4). The non-parole period is approximately 75% of the total effective sentence. I consider it to be an appropriate non-parole period having regard to the circumstances referred to above.

CERTIFICATE

I certify that this and the 14 preceding pages are a true copy of the reasons for sentence of Justice Beale of the Supreme Court of Victoria delivered on 28 November 2023.

DATED 28 November 2023



gmutter
.....
Associate