

SUPREME COURT OF QUEENSLAND

CITATION: *R v Morant* [2018] QSC 251

PARTIES: R
v
GRAHAM ROBERT MORANT
(defendant)

FILE NO/S: Indictment No 1424 of 2018

DIVISION: Trial Division

PROCEEDING: Trial

DELIVERED ON: 2 November 2018 (delivered *ex tempore*)

DELIVERED AT: Brisbane

HEARING DATE: 17 to 21 September 2018; 24 to 28 September 2018;
2 October 2018; 26 October 2018; 2 November 2018

JUDGE: Davis J

ORDER:  Convictions recorded.

On count 1, the defendant is sentenced to 10 years imprisonment.

On count 2, the defendant is sentenced to 6 years imprisonment.

The sentences are to be served concurrently.

Pursuant to s 159A of the *Penalties and Sentences Act* 1992, it is declared that 32 days spent in pre-sentence custody between 2 October 2018 and 2 November 2018 be deemed time already served under the sentence

CATCHWORDS:  CRIMINAL LAW – PARTICULAR OFFENCES – OFFENCES AGAINST THE PERSON – MISCELLANEOUS OFFENCES – OTHER MISCELLANEOUS OFFENCES AND MATTERS – where the defendant was charged with one count of counselling suicide and one count of aiding suicide pursuant to s 311 – where the defendant was convicted of both counts after trial – where no comparatives are available for the offence of counselling suicide

CRIMINAL LAW – SENTENCE – SENTENCING PROCEDURE – FACTUAL BASIS FOR SENTENCE – PARTICULAR CASES – where the Crown pressed for sentencing on the basis that the defendant counselled and aided his wife to commit suicide motivated by financial

the fact that you paid the premiums on the policies and inconsistent with your involvement with Mr Macallan and Mrs Morant in July 2014 and November 2014.

- [73] I do not find that you counselled Mrs Morant to take out the first policy, that held with Guardian, which was established in 2010.
- [74] It might be open to find that you counselled Mrs Morant to take out the other two policies, the later ones, thinking that there was a chance you could persuade her to suicide at some point more than 13 months later. There is support for such a conclusion in some of the statements made by Mrs Morant to the three ladies.
- [75] Mr Lehane, though, did not press for such a finding. Instead, he submitted that I should find that the plan was hatched in early 2014 when Mrs Morant first told her sister that you were trying to convince her to kill herself and that you had made statements to her, Mrs Morant, related to the insurance policies. I find, having regard to section 132C(4) of the *Evidence Act* that you began counselling Mrs Moran to suicide in about February of 2014.
- [76] It is unnecessary to make detailed findings as to Mrs Morant's emotional state or her mental health. However, she had what appears to be a chronic back condition which was causing her immense pain. She was on medication for that pain and was taking medication for depression. She was freely discussing, with various people, the prospect of her ending her own life. She was obviously a vulnerable person.
- [77] The note she left and the statement she made, which painted you in a good light and criticised others, are explained, in my view, by her state of mind. Here was a lady who suicided. The evidence of what she told the three ladies is, in my view, a more reliable account of what was actually occurring.
- [78] Against that backdrop, I find that you said the things which Mrs Morant told the three ladies you said. Those conversations and other evidence that I have identified show that you had an acute awareness that upon Mrs Morant's death, you would benefit from the payout of the insurance policies. I draw the inference that you were motivated by the money to counsel and to aid her to suicide. In other words, you counselled and aided your wife to kill herself because you wanted to get your hands on the 1.4 million. I make that finding on the balance of probabilities after having directed myself carefully to the provisions of section 132C(4) of the *Evidence Act* and taking all the evidence into account.
- [79] I have, as yet, said little specifically about the aiding, which is count 2. As I have already observed, you initially denied any knowledge of the generator which Mrs Morant used to kill herself.
- [80] Mrs Morant died in her car in a lonely place. The cause of death was carbon monoxide poisoning from the exhaust fumes of the petrol generator which was placed in the boot of the vehicle.
- [81] The evidence shows that you attended with Mrs Morant upon a Bunnings Warehouse the day before she used the generator to kill herself. You stayed in the carpark while she entered the store and purchased the generator. You helped her place it in the boot of the car at Bunnings. After initially denying to police any knowledge of the