



JUDGMENT SUMMARY

R v O'Dempsey: Pre-trial rulings on admissibility

On various dates in late 2016 and early 2017, the defendant, Vincent O'Dempsey applied for the exclusion of certain evidence at his pending trial. He also sought an order that rape charges against him be stayed due the absence of admissible evidence against him on those charges. At that time he faced charges for depriving Mrs Barbara McCulkin and her two daughters of their liberty; murdering Mrs McCulkin; raping her daughters; and murdering her daughters.

In hearing various applications Justice Applegarth made a number of oral rulings, and also delivered written rulings. Communication of the reasons to the general public at the time they were given risked prejudicing the pending trial of Dubois, and the pending separate trial of O'Dempsey.

Evidence that O'Dempsey raped one of the McCulkin daughters, and aided Dubois to rape the other daughter, was given by a witness, Peter Hall, who said that Dubois had confessed these things to him in January 1974. However, that evidence was acknowledged by the prosecution to be inadmissible against O'Dempsey. Due to the absence of any other evidence that O'Dempsey raped either of the McCulkin daughters, being evidence that was admissible against O'Dempsey, the Court ruled on 13 December 2016 that the rape charges against O'Dempsey be stayed.

In early 2017, in the light of new evidence from a witness, Warren McDonald, in relation to the murder charges, Justice Applegarth heard further submissions on the exclusion of certain evidence about O'Dempsey's criminal disposition and two possible motives for the murders.

The applications to exclude evidence relied on High Court and other authorities which require judges to exclude highly prejudicial evidence in certain circumstances. Applying those principles, and for reasons which were published on 3 March 2017, Justice Applegarth allowed certain evidence to be given at O'Dempsey's trial, and excluded certain other evidence.

Those reasons are now available to the general public, and may be found here:

Retrospective operation of the PPRA: [*R v Dubois & O'Dempsey* \[2016\] QSC 318](#)

Evidence of disposition: [*R v O'Dempsey \(No 1\)* \[2017\] QSC 100](#)

Evidence of motive: [*R v O'Dempsey \(No 2\)* \[2017\] QSC 101](#)

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.