

## **Leach v R**

**21 January 2005**

In 1984 the applicant was found guilty by a Darwin Supreme Court jury of one count of rape and two counts of murder. He was sentenced to mandatory life imprisonment on each count of murder and to life imprisonment on the count of rape. No non-parole period was fixed on the life sentences imposed for murder as this was not permitted by law. The *Sentencing (Crime of Murder) and Parole Reform Act 2003*, which came into operation in February 2004, fixed a non-parole period of 25 years in respect of the life sentences for murder. The Director of Public Prosecutions then applied to the Supreme Court seeking an order revoking the non-parole period fixed by the Act and requested the court to refuse to fix a non-parole period. On 12 November 2004 the Supreme Court made the order sought by the Director of Public Prosecutions.

The applicant applied for leave to appeal from the orders of the Supreme Court on the grounds that the judge hearing the application erred:

1. when interpreting culpability by failing to equate, or sufficiently recognise the features in common for sentencing purposes between mental illness and a personality disorder,
2. by failing to take into account or properly to take into account the significance of evidence of the applicant's maturing or mellowing in his personality disorder symptomatology, and
3. by rejecting the proposition that the sentencer needs to be satisfied beyond reasonable doubt of matters such as likely recidivism or dangerousness.

The Crown opposed the grant of leave on all grounds.

The appeal had not been listed for hearing as at 30 June 2005.