

NEWS RELEASE

The Scottish Criminal Cases Review Commission ('the Commission') has today referred the case of Sean Paul Kergan, in respect of his sentence only, to the High Court of Justiciary.

In accordance with the Commission's statutory obligations, a statement of reasons for its decision has been sent to the High Court, Mr. Kergan, his solicitor and Crown Office. The Commission has no power under its founding statute to make copies of its statements of reasons available to the public. Brief summaries of the background of the case and the Commission's reasons for referral are given below. These summaries are for information purposes only and the content of this news release should not be treated as forming part of the Commission's statement of reasons.

1.0 Background

1.1 On the 27 April 2006, at the High Court at Glasgow, Mr. Kergan and a co-accused appeared on an indictment that they did assault Stephen Michael Daly all to his severe injury and that they did murder him.

1.2. After the Crown led evidence from five witnesses, both co-accused pled guilty to the charge of murder. Mr. Kergan was sentenced to life imprisonment with a punishment part of thirteen years' imprisonment.

2.0 Reasons for Referral

2.1 The Commission considers that the sentencing judge did not apply correctly the sequence of steps to be taken before he had to decide whether Mr. Kergan was entitled to receive a 'discount' in his sentence for his guilty plea (in terms of section 196 of the Criminal Procedure (Scotland) Act 1995). In light of this, and the sentencing practice of the High Court, the Commission believes that there may have been a miscarriage of justice in respect of the punishment part of Mr. Kergan's sentence and that it is in the interests of justice to refer the case to the High Court for determination.

3.0 Notes for Editors

3.1 The Scottish Criminal Cases Review Commission was established as an independent body on 1 April 1999 to review alleged miscarriages of justice in Scottish convictions and/or sentences. Under section 194A–L of the Criminal Procedure (Scotland) Act 1995, as inserted by section 25 of the Crime and Punishment (Scotland) Act 1997, the Commission may refer a case to the High Court if it believes that a miscarriage of justice may have occurred and that it is in

the interests of justice that a reference should be made. Once the Commission refers a case to the High Court, the case will proceed as a normal appeal.

3.2 The Commission operates with a Board of seven Members (one of whom is the Chairperson), a Chief Executive, a Director of Corporate Services, two Senior Legal Officers, six Legal Officers and administrative support staff.

3.3 The Commission has reviewed its policy on disclosure and, from 1 April 2008, it has or will disclose the fact that a case has been referred to the High Court, and has or will provide a short summary of the reasons for this. However, as the Commission operates under statutory non-disclosure provisions, it is not considered appropriate for the Commission to disclose any additional information about such cases. The Commission will not release any information about cases in which no referral has been made or in respect of cases under review.

3.4 For any further general information about the Commission, please contact Mr. Chris Reddick, Director of Corporate Services, SCCRC, 5th Floor, Portland House, 17 Renfield Street, Glasgow; telephone: 0141 270 7030; e-mail: creddick@sccrc.org.uk; or visit the Commission's website at www.sccrc.org.uk