

NEWS RELEASE

Following the judgment of the Privy Council in the decision of *Flynn v HMA* (PC) 2004 SCCR 281, and the subsequent decisions of the High Court in *Flynn v HMA* (No. 2) 2004 SCCR 702 and *Christensen v HMA* 2005 SCCR 825, the Commission has referred the following case to the High Court for the reconsideration of the punishment part of his life sentence, previously set under the Convention Rights (Compliance) (Scotland) Act 2001 (hereinafter “the 2001 Act”):

- Mr Robert Sanderson – convicted at Edinburgh High Court on 25 March 1997 and sentenced to life imprisonment. In 2002, the court set a 15 year punishment part.

The 2001 Act specifies that the High Court should set a part of the sentence for life prisoners to be known as the “punishment part”. This punishment part should be the period considered necessary for the purposes of deterrence and retribution; prisoners must serve this period before their release on licence can be considered by the parole board.

As a consequence of the judicial guidance provided in the *Flynn* judgments, the Commission has decided to refer these cases as they may be within a category of prisoners affected by the changes in the interpretation of the transitional provisions of the 2001 Act. These provisions apply to mandatory life prisoners sentenced to life imprisonment on or before 8 October 2001 (on which date the 2001 Act came into force).

The Commission has therefore referred this case back to the High Court in order that the punishment part can be reconsidered in light of the recent interpretation of the relevant provisions of the 2001 Act.

Notes for Editors

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 194 A to L of the Criminal Procedure (Scotland) Act 1995 (as inserted by section 25 of the Crime and Punishment (Scotland) Act 1997) the Commission can 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. The Commission’s remit extends to both solemn and summary cases.

Once a case is referred to the High Court by the Commission, it will proceed as a normal appeal. The appellant or his legal advisors may seek to expand the grounds of appeal from those which are the subject of the referral.

The Commission currently operates with a Board of 9 Members, one of whom is the Chairperson, a Chief Executive, a Director of Corporate Services, 2 Senior Legal Officers, 5 Legal Officers and administrative support staff.

When a case is referred, the Commission issues a press release to disclose the fact that the case has been referred, with general details relating to the case. However, as the Commission operates under strict statutory non-disclosure provisions, it is not possible for the Commission to disclose any further information about such cases. The Commission will not release any information regarding cases in which no referral has been made or in respect of cases under review.

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