

**IN THE COURT OF APPEAL OF NEW ZEALAND**

**CA191/2012  
CA194/2012  
CA201/2012  
CA204/2012  
[2013] NZCA 274**

BETWEEN WILLIAM PATRICK JEFFRIES  
MICHAEL HOWARD REEVES  
DOUGLAS ARTHUR MONTROSE GRAHAM  
LAWRENCE ROLAND VALPY BRYANT  
Appellants

AND THE QUEEN  
Respondent

**CA225/2012  
CA226/2012  
CA227/2012  
CA228/2012**

BETWEEN THE QUEEN  
Appellant

AND WILLIAM PATRICK JEFFRIES  
MICHAEL HOWARD REEVES  
DOUGLAS ARTHUR MONTROSE GRAHAM  
LAWRENCE ROLAND VALPY BRYANT  
Respondents

Court: Randerson, Wild and French JJ

Counsel: J A Farmer QC, M A Corlett, D H O'Leary and M A Sissons for  
Jeffries, Reeves, Graham and Bryant  
C R Carruthers QC and D R La Hood for the Crown

Judgment: 2 July 2013 at 10:00am

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**JUDGMENT OF THE COURT**

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**A** The appeals by the Solicitor-General (CA225/2012, CA226/2012, CA227/2012 and CA228/2012) are allowed.

**B** The following sentences are substituted for the sentences of community work imposed in the High Court:

**William Patrick Jeffries is sentenced to eight months home detention and 250 hours community work.**

**Michael Howard Reeves is sentenced to nine months home detention and 250 hours community work.**

**Douglas Arthur Montrose Graham is sentenced to six months home detention and 200 hours community work.**

**Lawrence Roland Valpy Bryant is sentenced to six months home detention.**

**C** The orders for reparation against each of Douglas Arthur Montrose Graham and Lawrence Roland Valpy Bryant in the amount of \$100,000 remain.

**D** The sentences of home detention are to be served at the respective addresses identified in the reports prepared for this Court by the Department of Corrections in June 2013.

**E** The standard conditions for home detention under s 80C(2) of the Sentencing Act 2002 are to apply.

**F** The sentences of home detention and community work are to commence 14 days after the date of issue of this judgment or, if an application for leave to appeal to the Supreme Court is filed within that period, the sentences are to commence 14 days after the date of final disposition of

**the application for leave to appeal or 14 days after the date of final disposition of any appeal if leave is granted.**

**G The respondents must be at their respective addresses from the time of the commencement of the sentences and remain there pending the arrival of a probation officer and an officer of the company responsible for connecting the electronic monitoring system.**

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## **REASONS OF THE COURT**

(Given by Randerson J)

[1] In our interim judgment delivered on 30 May 2013<sup>1</sup> we found that the sentences imposed in the High Court on the respondents were manifestly inadequate. We deferred determining the final sentences until we had obtained updated reports under s 26A of the Sentencing Act 2002 on the availability of suitable addresses for home detention purposes.

[2] Those reports have now been received and have been sent to counsel. Submissions were invited as to the ability of the respondents to complete the proposed sentences of home detention and community work.

[3] The updated reports show there is no issue about the suitability of the addresses of any of the respondents for home detention purposes or for electronic monitoring. However, it has been reported that Mr Bryant's health may preclude him from completing a sentence of community work. A medical report has been provided.

[4] The report relating to Sir Douglas Graham notes that his health may present some difficulties in completing a sentence of home detention as he is required to undertake a daily walk for up to one hour.

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<sup>1</sup> *Jeffries v R* [2013] NZCA 188.

[5] Counsel for the respondents has advised that Sir Douglas Graham, the Hon William Jeffries and Mr Bryant do not wish to make submissions on penalty and are content with the reports received for each of them. A statement by Mr Reeves was provided to the Court regarding his health and responsibilities for his children.

[6] Counsel for the Solicitor-General has filed a memorandum limited to the personal circumstances outlined by Mr Reeves in his statement. Counsel submits that there does not appear to have been any change in Mr Reeves' circumstances since he was sentenced in the High Court and that those circumstances do not justify imposing a sentence of less than home detention in combination with community work.

[7] We are satisfied there is no impediment to any of the respondents completing a sentence of home detention combined with community work with the exception of Mr Bryant whose health has deteriorated since the sentences were imposed in the High Court. We are satisfied that his health would preclude him from effectively completing a sentence of community work. However, it is not suggested that his health condition would prevent him from serving a sentence of home detention.

[8] We are satisfied that the requirement for Sir Douglas Graham to exercise outside the home on a daily basis can be accommodated with the agreement of the probation officer under s 80C(3)(c)(vi) of the Sentencing Act. In our view, it would be appropriate and reasonable for the probation officer to authorise that activity on appropriate terms as to duration, frequency and location.

[9] Mr Jeffries and Mr Reeves have indicated that they may need to leave their homes for employment reasons for part of each day. We note that the probation officer has power to authorise that under s 80C(3)(c)(ii) of the Sentencing Act.

[10] In our interim judgment, we concluded that prison sentences should have been adopted as a starting point and that the discounts allowed by the sentencing Judge were excessive. We said that the appropriate final sentences should have been a combination of home detention and community work. We accepted that the

number of hours of community work ordered in the High Court should be moderated given that home detention was to be imposed.

[11] We accept there ought to be a proportionate relationship between the length of home detention and the prison sentence otherwise considered appropriate. Regard must also be had to the maximum of 12 months available for home detention sentences. Fixing the periods of home detention is not a mathematical exercise but a period of home detention of approximately half the prison sentence that would otherwise have been imposed is sometimes adopted as a guideline.

[12] The prison sentences identified in our interim judgment after the discounts considered appropriate would approximate 15 to 16 months for Mr Jeffries; 20 to 21 months for Mr Reeves; and 13½ months for each of Sir Douglas Graham and Mr Bryant. On that basis, we consider that the appropriate sentences are:

William Patrick Jeffries: Eight months home detention and 250 hours community work.

Michael Howard Reeves: Nine months home detention and 250 hours community work.

Douglas Arthur Montrose Graham: Six months home detention and 200 hours community work.

Lawrence Roland Valpy Bryant: Six months home detention.

[13] The appeals by the Solicitor-General (CA225/2012, CA226/2012, CA227/2012 and CA228/2012) are allowed.

[14] The sentences in [12] are imposed in substitution for the sentences of community work imposed in the High Court.

[15] The orders for reparation against each of Douglas Arthur Montrose Graham and Lawrence Roland Valpy Bryant in the amount of \$100,000 remain.<sup>2</sup>

[16] The sentences of home detention are to be served at the respective addresses identified in the reports prepared for this Court by the Department of Corrections in June 2013.

[17] The standard conditions for home detention under s 80C(2) of the Sentencing Act are to apply.

[18] The sentences of home detention and community work are to commence 14 days after the date of issue of this judgment or, if an application for leave to appeal to the Supreme Court is filed within that period, the sentences are to commence 14 days after the date of final disposition of the application for leave to appeal or 14 days after the date of final disposition of any appeal if leave is granted.

[19] The respondents must be at their respective addresses from the time of the commencement of the sentences and remain there pending the arrival of a probation officer and an officer of the company responsible for connecting the electronic monitoring system.

Solicitors:  
Gibson Sheat, Lower Hutt for Jeffries, Graham and Bryant  
Henderson Reeves, Whangarei for Reeves  
G J Burston, Crown Solicitor, Wellington

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<sup>2</sup> Although we have been advised Mr Bryant has paid the reparation ordered.