

Law Interview

1. To begin, what do you think of the recent Supreme Court decision? Do you think it was fitting that s. 745.51 was struck down?
2. Looking at one of the reasons that s. 745.51 was enacted, should there be a distinction made, in terms of sentencing, between someone that commits multiple murders and someone that commits one murder? Or just looking at some of the aggravating factors as defined in s. 718.2, should there be a distinction made? From a moral and retributive standpoint, I think it's easy to argue that a distinction should be made.
3. If there were to be a distinction made based on the number of victims and other aggravating factors, how can this distinction be made, such that it is constitutional?
  - a. One way I can think of is to have a cap on the age at which the offender can apply for parole. For example, the life expectancy of prisoners is 62 years. Judges are then allowed the discretion to decide the parole ineligibility period, as long as the prisoner can apply for parole by the age of 62 and, of course, as long as the minimum period is 25 years. Is that someone that can be considered? Would it be a good idea?
  - b. Another way I can think of is to reduce the minimum parole ineligibility period, keep the maximum period 25 years, and allow judges to decide the actual number of years. What about that?
4. Looking at the period of 25 years itself, can't that be considered unconstitutional? Since if an offender is around 70 and has committed first-degree murder, there's no realistic expectation of release. Is this saying that it's okay if older offenders have no realistic ability to apply for parole but not okay if younger offenders have no realistic ability to apply for parole? At what age do we draw the line? Should the age of the offender play a part in their sentencing?
5. I read a paper by Dr. Adelina Iftene, a law professor at Dalhousie, on s. 745.51. She states that some judges emphasized deterrence, denouncement, and retribution, so they were more likely to impose consecutive sentences under s. 745.51. Is that a fault of the legislation for providing judges with the discretion, or more of the fault of a judge if they were to apply s. 745.51 to impose a grossly disproportionate sentence?

6. I read another case, *R. v. Granados-Arana*, where the judge concluded that s. 745.51 does not violate s. 12 since it only provides discretionary powers to judges and does not mandate grossly disproportionate sentences. The judge also says that life without the realistic possibility of parole is not cruel and unusual since other countries, notably the US, Australia, UK, and New Zealand allow such sentences, and such sentences comply with the measures protecting from cruel and unusual punishment in those countries. What makes Canada's approach different, and why is it different?
7. s. 718 of the Criminal Code says that sentencing must have one or more objectives: denunciation, deterrence, rehabilitation, and reparation, among others. If a judge were to impose a cruel and unusual sentence by applying s. 745.51, would it undermine the rehabilitation aspect of s. 718, therefore, be the fault of the judge? Or am I misinterpreting s. 718 since it says, "**one or more** of the objectives," so the judge doesn't even have to consider rehabilitation? Do judges need to consider all of the factors?
8. In California, first-degree murder is punishable under a life sentence with no possibility of parole for 25 years, except if the victim(s) were murdered for their race, gender, or religion, in which case the punishment is life in prison without parole. What do you think of sentences where some aggravating factors considerably change the sentence?
9. Various judges have differing viewpoints on rehabilitation, as Dr. Iftene's report states. I agree that judges cannot predict rehabilitation, which should be left to the parole board when the time comes, but some judges don't seem to agree. Should this even be the case? Should there be a standard in how judges consider each punishment objective in s. 718?
10. Do you think the current sentence for first-degree murder is enough to consider each punishment objective as defined in s. 718? If not, how do you think it can be changed?