

“I got it wrong in tribal rape sentence: Chief Justice”

This story was on the front page of “The Australian” newspaper on 24th May, 2006. The Chief Justice had been attacked in the media for his one month sentence to an elder for a sexual assault. The case went to the Northern Territory Court of Criminal Appeal and was increased to three years, suspended after 18 months.

In November 2006, six months after this page one story in “The Australian”, the trial of Graham X began in the Darwin Supreme Court in front of Chief Justice Martin. Mr Woodcock for Graham X's defence should have requested a different presiding judge in the case of The Queen versus Graham X. After the guilty verdict, an appeal should have been made to the Northern Territory Court of Criminal Appeal. Graham X's trial was a political and racial trial -- a case of “justice denied”.

The attached story headed “I was wrong” comments on the Chief Justice's sentencing in August 2005 in “a case that triggered a national outcry” (as reported in The Katherine Times, 17-08-2005).

The Legal Affairs Editor of “The Australian”, Chris Merritt, quotes the Chief Justice on 24-05-2006: “I was wrong. I got the sentence wrong. The Court of Criminal Appeal said I was wrong. I have no problem with that,” Justice Martin told “The Australian” yesterday. When courts considered an Aborigine's belief in customary law they were applying a principle that was used in courts across the nation, he said.

“The principle is the same. It goes back to the offender's circumstances, their background, their culture – all of those things go to their make-up and reflect on their background, their culture – all of those things go to their make-up and reflect on their moral culpability,” Justice Martin said.

[Now, what a shame Chief Justice Martin did not consider the “moral culpability” and background of the 15-year-old boy, Graham X when the boy appeared in the Darwin Supreme Court in November 2006, just six months after the Chief Justice's statement to the media.]

Chris Merritt's article on page one continues:

Justice Martin handed down his original on-month sentence in August last year [2005] while sitting under a tree surrounded by residents of the remote community of Yarralin, 380km south-west of Katherine...

Mr Brough said not only was Justice Martin's decision wrong, but that the appeal judges had also failed the victim by increasing the sentence to three years suspended after 18 months. “If you think giving a man an 18-month prison sentence – that's how long he was actually to be in jail for – for raping a girl for two days at 14 years of age, then I think our society has some very serious questions to answer,” he told ABC Television.