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**CASE REPORT**

Current as on: March 3, 2009

<b>Case Name</b>	<i>R v TR &amp; FV; ex parte A-G</i>
<b>Reported in</b>	<i>R v TR &amp; FV; ex parte A-G (Qld)</i> [2008] QCA 221
<b>Date(s)</b>	Original case: January 18, 2008 Appeal heard: May 15, 2008 Appeal delivered: August 1, 2008
<b>Court/ Jurisdiction</b>	Queensland Court of Appeal
<b>Charges: TR</b>	s 229B <i>Criminal Code</i> (Qld): Maintaining a sexual relationship with a child. s 229H <i>Criminal Code</i> (Qld): Knowingly participating in the provision of prostitution. s 229G <i>Criminal Code</i> (Qld): Procuring a person to engage in prostitution. s 210(1)(a) <i>Criminal Code</i> (Qld): Unlawfully and indecently dealing with a child under 16. s 210(1)(f) <i>Criminal Code</i> (Qld): Taking indecent visual images of a child under 16 who was their lineal descendant and in their care. s 228 <i>Criminal Code</i> (Qld): Obscene publications and exhibitions. s 349 <i>Criminal Code</i> (Qld): Rape.
<b>Charges: FV</b>	s 229B <i>Criminal Code</i> (Qld): Maintaining a sexual relationship with a child. s 229H <i>Criminal Code</i> (Qld): Knowingly participating in the provision of prostitution. s 229G <i>Criminal Code</i> (Qld): Procuring a person to engage in prostitution. s 210(1)(a) <i>Criminal Code</i> (Qld): Unlawfully and indecently dealing with a child under 16. s 210(1)(f) <i>Criminal Code</i> (Qld): Taking indecent visual images of a child under 16 who was their lineal descendant and in their care. s 228 <i>Criminal Code</i> (Qld): Obscene publications and exhibitions.
<b>Appeal</b>	2008

**Contents**

Summary of Facts ..... 2  
Appeal..... 2

## Summary of Facts

Ms TR and Mr FV, the parents of a teenage girl living on the Gold Coast, were charged with a number of offences for prostituting their daughter, from the age of 12.<sup>1</sup> TR carried on a prostitution service from a permanently let motel room and later from an industrial estate. A website was set up to promote the prostitution business. The website offered the services of Ms TR and the girl individually or together. During investigations, a number of indecent photographs of the girl were found at the family home and on the website. A diary was also found with references to 28 bookings for the girl between the dates of February 20, 2004 to July 9, 2004.

The parents were arrested in October 2004 and pleaded guilty to all charges. In January 2008, Ms TR (the mother) was sentenced for 62 offences while Mr FV (the father) was sentenced for 41 offences.<sup>2</sup> TR was sentenced to 13 years jail for knowingly participating in the provision of prostitution of her daughter (s 229H *Criminal Code* (Qld)) as well as for procuring her daughter to engage in prostitution (s 229G *Criminal Code* (Qld)).<sup>3</sup> Both offences carry an aggravated sentence of 14 years as the daughter was a minor. Mr FV was sentenced to 10 years for these same offences.<sup>4</sup> On the charge of maintaining a sexual relationship with a child (s 229B *Criminal Code* (Qld)) TR was sentenced to 6 years and FV was sentenced to 7 years.<sup>5</sup> For the remainder of the offences (detailed above), concurrent terms of imprisonment were imposed.

## Appeal

The prosecution appealed the sentences imposed for TR and FV for maintaining an unlawful relationship of a sexual nature with a girl under 16, s 229B, as well as the period of imprisonment to be served prior to parole eligibility, which for TR was four years and for FV was three years.

It was acknowledged by the judges, as well as by the prosecution, that this case was not the type of case s 229B typically applied to.<sup>6</sup> This case involved no sexual gratification of either of the parents; they were solely using their daughter to increase the profit of their prostitution business.<sup>7</sup> In order to assess whether an appropriate sentence had been handed down to the defendants, the judges compared the facts of this case, looking at the involvement of TR and FV individually, to more mainstream cases that fell within s 229B.<sup>8</sup>

It was held that on the whole, the facts of this case did not fall at the most serious end of the spectrum of cases that typically come under s 229B.<sup>9</sup> There were a number of reasons for this view.<sup>10</sup> First, the daughter was older than children typically involved in such cases. Nevertheless, it was held that at her age she lacked the maturity to make informed decisions for herself about engaging in such activity. Second, the conduct lasted a shorter period than is often the case and as already stated it involved no personal sexual gratification on the part of the parents. Third, the sentencing judge remarked how the photos taken for the website appeared contrived and were for the purpose of promoting the business rather than sexual gratification of the parents. Although the parents did not use violence against their daughter,

<sup>1</sup> *R v TR & FV; ex parte A-G (Qld)* [2008] QCA 221 at paras [4]–[5]

<sup>2</sup> *R v TR & FV; ex parte A-G (Qld)* [2008] QCA 221 at para [4]

<sup>3</sup> *R v TR & FV; ex parte A-G (Qld)* [2008] QCA 221 at para [8]

<sup>4</sup> *R v TR & FV; ex parte A-G (Qld)* [2008] QCA 221 at para [8]

<sup>5</sup> *R v TR & FV; ex parte A-G (Qld)* [2008] QCA 221 at para [8]

<sup>6</sup> *R v TR & FV; ex parte A-G (Qld)* [2008] QCA 221 at para [32]

<sup>7</sup> *R v TR & FV; ex parte A-G (Qld)* [2008] QCA 221 at para [52]

<sup>8</sup> *R v TR & FV; ex parte A-G (Qld)* [2008] QCA 221 at paras [35]–[50]

<sup>9</sup> *R v TR & FV; ex parte A-G (Qld)* [2008] QCA 221 at para [38]

<sup>10</sup> *R v TR & FV; ex parte A-G (Qld)* [2008] QCA 221 at para [52]

an inference was made from various pieces of evidence that the girl was a reluctant participant.

The judges held that there had been an error in sentencing in that FV, who was less involved in the entire process, received a higher sentence than TR for the charge of maintaining a sexual relationship with a child.<sup>11</sup> TR was present when the acts of prostitution took place between customers and her daughter, and provided directions and encouragement to her daughter. There was also evidence that she procured a particular customer for her daughter. FV was less involved. He knew the girl was being prostituted and approved of it, however he was not involved in any of the day to day details of the prostitution of his daughter. The judges held that FV's sentence of 7 years was adequate, however, TR's was not.<sup>12</sup> They held that given the differing involvement of the two, TR's sentence should have been significantly higher than FV's.<sup>13</sup>

Thus, TR's sentence of 6 years was increased to 9 years.<sup>14</sup> The number of years to be served prior to parole eligibility was held to be appropriate and was not changed. Hence, TR and FV were still eligible for parole after four years and three years, respectively.

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<sup>11</sup> *R v TR & FV; ex parte A-G (Qld)* [2008] QCA 221 at para [51]

<sup>12</sup> *R v TR & FV; ex parte A-G (Qld)* [2008] QCA 221 at para [41]

<sup>13</sup> *R v TR & FV; ex parte A-G (Qld)* [2008] QCA 221 at para [41]

<sup>14</sup> *R v TR & FV; ex parte A-G (Qld)* [2008] QCA 221 at paras [54], [56]