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Special COVID-19 Law A Weekly Bulletin listing Decisions of Superior Courts of Australia covering COVID-19

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Executive Summary (1 minute read)

Raul Bassi v Commissioner of Police (NSW) (NSWCA) - public assembly - Black Lives Matter - COVID-19 - appeal against refusal to authorise proposed public assembly - appeal allowed

Cabezuela v R (NSWCCA) - criminal law - sexual offences - historical sexual offences - appeal against conviction dismissed - leave to appeal against sentence granted - appeal dismissed

Commissioner of Police (NSW) v Supple (NSWSC) - public assembly - COVID-19 - Commissioner sought order prohibiting proposed public assembly - s25 *Summary Offences Act 1988* (NSW) - order granted

Kember v Carl & Anor (QSC) - personal injury - transfer of proceedings - requirement for defendant to sign 'request for trial date' dispensed with - applications granted

Summaries With Link (Five Minute Read)

Raul Bassi v Commissioner of Police (NSW) [2020] NSWCA 109

Court of Appeal of New South Wales

Bathurst CJ, Bell P, Leeming JA

Public assembly - Black Lives Matter - COVID-19 - proceedings concerned 'proposed public assembly' - appellant organised the proposed public assembly in response to death of George Floyd in United States of America - proposed public assembly was to be 'in furtherance of the

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Black Lives Matter cause' and 'particular memory of an indigenous Australian, Mr David Dungay' - respondent sought that the public assembly be prohibited - primary judge 'declined to authorise' public assembly - whether primary judge erred in finding appellant did not give notice on 29/5/20 under s23(1) *Summary Offences Act 1988* (NSW) (*Summary Offences Act*) concerning public assembly to be held on 6/6/20 - whether primary judge erred in finding that notice's amendment had effect that 'new notice had been given' - whether primary judge erred in refusing to grant declaration that respondent had notified appellant that respondent 'did not oppose the holding of a public assembly' as described in notice amended on 4/6/20 - whether primary judge erred in dismissing respondent's application under s25 *Summary Offences Act* and requiring appellant to apply under s26 *Summary Offences Act* - held: appeal allowed.

[View Decision](#)

Cabezuela v R [2020] NSWCCA 107

Court of Criminal Appeal of New South Wales

Hoeben CJ at CL; Walton & Harrison JJ

Criminal law - sexual offences - appellant found guilty of '27 counts of historical sexual offences committed upon four complainant sisters' - appellant appealed against conviction and sought to appeal against sentence - appellant contended, in respect of conviction, that trial judge had erroneously found he had 'no legal basis to discharge a particular juror' with consequence appellant 'did not receive a trial according to law' - appellant contended, in respect of sentence, that aggregate sentence was manifestly excessive and that 'a number of indicative sentences were manifestly excessive - appellant also contended sentence was manifestly excessive with regard to COVID-19 pandemic and its relationship to appellant's 'advanced age, poor health status and custodial arrangements' - whether to grant appellant leave to 'introduce fresh evidence' - held: conviction appeal dismissed - leave to appeal against sentence granted on ground concerning COVID-19 - appeal dismissed.

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Commissioner of Police (NSW) v Supple [2020] NSWSC 727

Supreme Court of New South Wales

Walton J

Public assembly - COVID-19 - Commissioner sought order pursuant to s25 *Summary Offences Act 1988* (NSW) prohibiting proposed public assembly - public assembly was identified in "Notice of Intention to Hold a Public Assembly" signed by defendant member of 'Refugee Action Coalition' - Public Health Order - risk of COVID-19 infections - evidence of Chief Health Officer, Dr Kerry Chant - Australia Health Protection Principle Committee statement - risks to 'front line workers' - balance of 'public health risks' against 'the rights to public assembly and freedom of speech' - held: order granted.

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Kember v Carl & Anor [2020] QSC 105

Supreme Court of Queensland



Crow J

Personal injury - transfer of proceedings - plaintiff sought that requirement for defendant to sign 'request for trial date' be 'dispensed with' and setting of trial date - second defendant sought transfer of proceedings from Supreme Court of Rockhampton to Supreme Court of Queensland - place of residence of parties and witnesses - place where 'cause of action arose' - availability of 'earlier trial dates' - COVID-19 - whether possible to make finding concerning 'relative risks of possible infection by COVID-19' by holding trial in Rockhampton not Brisbane - rr39 & 469 *Uniform Civil Procedure Rules 1999 (Cth) - Wurth Australia Pty Ltd v Burgess* [2012] WASC 504 - held: applications granted.

[Kember](#)

Two Lacquer Prints

By: Amy Lowell

The Emperor's Garden

ONCE, in the sultry heat of midsummer,
An Emperor caused the miniature mountains in his
garden
To be covered with white silk,
That so crowned,
They might cool his eyes
With the sparkle of snow.

Meditation

A wise man,
Watching the stars pass across the sky,
Remarked:
In the upper air the fireflies move more slowly.

[Amy Lowell](#)

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