



Friday, 3 July 2020

Weekly Criminal Law

A Weekly Bulletin listing Decisions
of Superior Courts of Australia covering criminal

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Executive Summary

Nguyen v The Queen (HCA) - criminal law - evidence - erroneous decision not to adduce 'mixed statements' - 'prosecutorial obligation' - appeal allowed

Dickson v Commissioner, Australian Federal Police (NSWCA) - summary dismissal - judicial review - proceeds of crime - application for leave to appeal refused

WX v R (NSWCCA) - criminal law - 'indecent assault on a child under sixteen years of age' - 'sexual intercourse with a child under the age of ten years' - appeal against convictions allowed

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Summaries With Link (Five Minute Read)

Nguyen v The Queen [2020] HCA 23

High Court of Australia

Kiefel CJ; Bell, Gageler, Keane, Nettle, Gordon & Edelman JJ

Criminal law - evidence - appeal concerning question prosecution obliged to tender 'recorded interview' with appellant which contained 'mixed statements' - whether Full Court of the Supreme Court of the Northern Territory erred in answering question in negative - 'obligation of fairness' in trial's conduct - mixed statements' admissibility - Ch 3 *Evidence (National Uniform Legislation) Act 2011* (NT) - 'practice and principle' - 'differences of opinion and practice' - 'prosecutorial discretion and fairness' - 'countervailing factors' - held: decision not to adduce mixed statements was not in accordance with 'prosecutorial obligation' respecting presentation of 'Crown case' - appellant disadvantaged - appeal allowed.

[Nguyen](#)

Dickson v Commissioner, Australian Federal Police [2020] NSWCA 125

Court of Appeal of New South Wales

Basten & Meagher JJA

Summary dismissal - judicial review - proceeds of crime - applicant sought declaration that orders granted to respondent under *Proceeds of Crime Act 2002* (Cth) were "vitiating by the fraud" by respondent and involved "fundamental abuses of process and are void ab initio." - payment of 'exemplary damages' by respondent also sought - applicant sought leave to institute proceedings under s4 *Felons (Civil Proceedings) Act 1981* (NSW) (Felons (Civil Proceedings) Act) (leave application) - respondent sought to strike out statement of claim or proceedings' dismissal - applicant sought summary judgment - Wright J refused leave application and summary judgment claim and dismissed proceedings 'to the extent necessary' - applicant sought to appeal - whether to grant extension of time 'to seek leave to appeal' - whether to grant leave to appeal under Felons (Civil Proceedings) Act - whether to grant leave under Felons (Civil Proceedings) Act concerning refusal of leave application or concerning proceedings' summary dismissal - s101 *Supreme Court Act 1970* (NSW) - s6 Felons (Civil Proceedings) Act - held: leave to appeal refused.

[View Decision](#)

WX v R [2020] NSWCCA 142

Court of Criminal Appeal of New South Wales

Payne JA; Beech-Jones & N Adams JJ

Criminal law - appellant found guilty of 'three offences of indecent assault on a child under sixteen years of age' and 'two counts of sexual intercourse with a child under the age of ten years' - appellant appealed against conviction 'on all counts' - whether miscarriage of trial arising from misconstruction of s306J *Criminal Procedure Act 1986* (NSW) and disallowance of 'further cross-examination of CD' following 'first trial' - whether miscarriage of trial arising from 'prejudice occasioned by' closing address of Crown Prosecutor 'which reversed the



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onus of proof' - ss61M(2) & 66A(1) *Crimes Act 1900* (NSW) - s15A *Children (Criminal Proceedings) Act 1987* (NSW) - held: appeal allowed.

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Motor Bus

By: Alfred Denis Godley

What is this that roareth thus?

Can it be a Motor Bus?

Yes, the smell and hideous hum

Indicat Motorem Bum!

Implet in the Corn and High

Terror me Motoris Bi:

Bo Motori clamitabo

Ne Motore caedar a Bo—

Dative be or Ablative

So thou only let us live:

Whither shall thy victims flee?

Spare us, spare us, Motor Be!

Thus I sang; and still anigh

Came in hordes Motores Bi,

Et complebat omne forum

Copia Motorum Borum.

How shall wretches live like us

Cincti Bis Motoribus?

Domine, defende nos

Contra hos Motores Bos!

[https://en.wikipedia.org/wiki/A. D. Godley](https://en.wikipedia.org/wiki/A._D._Godley)

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