

Friday, 8 February 2019

Weekly Criminal Law

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

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Executive Summary

R v Campbell; R v Smith (NSWCCA) - criminal law - drug offences - firearms offences - Crown appealed against 'asserted inadequacy' of sentences imposed on two respondents - appeals allowed - respondents resentenced

Walker v R (NSWCCA) - criminal law - sexual offences - jury found applicant guilty of 5 offences and not guilty of remaining 11 offences - verdicts were not unreasonable and unsupported by evidence - appeal dismissed

Devereaux v The Queen (VSCA) - criminal law - using a carriage service to harass - blackmail - 'make threat to kill' - leave to appeal against sentence on ground of manifest excess refused

Hamid v The Queen (VSCA) - criminal law - 'recklessly causing serious injury' - sentence not manifestly excessive - leave to appeal granted - appeal dismissed

Harvey v Queensland Police Service & Director of Public Prosecutions

(Queensland) (QCA) - criminal law - driving under influence of liquor - public nuisance - 'serious assault of a police officer' - appeal against convictions and sentence dismissed - extension of time to seek leave to appeal against dismissal refused

Summaries With Link (Five Minute Read)

R v Campbell; R v Smith [2019] NSWCCA 1

Court of Criminal Appeal of New South Wales

Beazley P; Rothman & R A Hulme JJ

Criminal law - drug offences - firearms offences - Crown appealed 'against the asserted inadequacy of aggregate sentences' imposed on two respondents - Crown contended the sentences were 'manifestly inadequate' - whether failure to reflect offending's 'objective seriousness' - whether erroneous approach to totality principle - 'totality and accumulation' - 'specific deterrence' - denunciation - community's protection - held: appeals allowed - respondents resentenced.

[View Decision](#)

Walker v R [2019] NSWCCA 4

Court of Criminal Appeal of New South Wales

Hoeben CJ at CL; Rothman & Price JJ

Criminal law - sexual offences - applicant stood trial on 16 counts of sexual misconduct against complainant - jury found applicant guilty of 5 counts and not guilty of other counts - applicant contended guilty verdicts were unreasonable and could not be supported with regard to evidence and jury's not guilty verdicts - 'complaint evidence' - 'pretext call' - Crown's reliance on complainant's evidence 'almost exclusive' - whether acquittals reflected jury's doubts about complainant's credibility - whether guilty and not guilty verdicts inconsistent - held: appeal dismissed.

[View Decision](#)

Devereaux v The Queen [2019] VSCA 6

Court of Appeal of Victoria

Kyrou JA

Criminal law - applicant pleaded guilty to using a carriage service to harass, blackmail and 'make threat to kill' - applicant sought leave to appeal against sentence on ground of manifest excess - early guilty plea - applicant's 'personal circumstances' - offending's duration - applicant's time in 'residential rehabilitation' - ss474.17 *Criminal Code Act 1995* (Cth) - s87 *Crimes Act 1958* (Vic) (Crimes Act) - s20 Crimes Act - held: not 'reasonably arguable' that sentence was manifestly excessive in 'any aspect' - leave to appeal refused.

[Devereaux](#)

Hamid v The Queen [2019] VSCA 5

Court of Appeal of Victoria

Whelan & Kyrou JJA

Criminal law - applicant pleaded guilty to 'recklessly causing serious injury' - applicant sentenced to 10 years in prison with 7 year non-parole period - judge declared under s6AAA *Sentencing Act 1991* (Vic) that if applicant had not pleaded guilty she would have imposed sentence of 12 years 6 months in prison with 10 year non-parole period - applicant sought to appeal against sentence on ground of manifest excess - held: sentence 'stern' but not



manifestly excessive - leave to appeal granted - appeal dismissed.

[Hamid](#)

**Harvey v Queensland Police Service & Director of Public Prosecutions
(Queensland) [2019] QCA 5**

Court of Appeal of Queensland

Morrison and Philippides and McMurdo JJA

Criminal law - applicant convicted of driving under influence of liquor, causing public nuisance and 'serious assault of a police officer' - applicant sought extension of time to seek leave to appeal against District Court judge's dismissal of applicant's appeal against convictions and sentence - delay - merits of proposed appeal - held: no error demonstrated in applicant's complaint grounds - no injustice suffered - extension of time refused.

[Harvey](#)



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Fishmonger

By: Marsden Hartley

I have taken scales from off

The cheeks of the moon.

I have made fins from bluejays' wings,

I have made eyes from damsons in the shadow.

I have taken flushes from the peachlips in the sun.

From all these I have made a fish of heaven for you,

Set it swimming on a young October sky.

I sit on the bank of the stream and watch

The grasses in amazement

As they turn to ashy gold.

Are the fishes from the rainbow

Still beautiful to you,

For whom they are made,

For whom I have set them,

Swimming?

https://en.wikipedia.org/wiki/Marsden_Hartley

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