

Friday, 10 August 2018

Weekly Criminal Law

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

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Executive Summary

Weribone v R (NSWCCA) - criminal law - robbery in company - leave to appeal against sentence refused

R v Shashati (NSWCCA) - criminal law - aggravated driving occasioning death - Director of Public Prosecution's appeal against sentence allowed

White v R (NSWCCA) - criminal law - indictment contained 11 counts of alleged sexual offences against child complainant - applicant found guilty of one offence - appeal conviction dismissed

R v LAL (QCA) - criminal law - indecent treatment offences - applicant convicted as adult of two offences of indecent treatment of child which he committed as a juvenile - appeal against sentence allowed

Banks v The State of Western Australia (WASCA) - criminal law - unlawful assault - error by trial judge in respect of misdirection - miscarriage of justice arising from continuation of trial in juror's absence - appeal allowed

Summaries With Link (Five Minute Read)

Weribone v R [2018] NSWCCA 172

Court of Criminal Appeal of New South Wales

White JA; Bellew & Wilson JJ

Criminal law - applicant convicted of offence of robbery in company - applicant sentenced to 3 years in prison with 18 months non-parole period - sentence 'imported' 25% discount to reflect plea's early entry - applicant sought to appeal against sentence - deterrence - whether material error by judge - whether sentence manifestly excessive - whether sentence 'unreasonably or plainly unjust' - 'Mothers and Children Programme' - 'specific and general deterrence' - held: leave to appeal against sentence refused.

[View Decision](#)

R v Shashati [2018] NSWCCA 167

Court of Criminal Appeal of New South Wales

Basten JA; Wilson & Lonergan JJ

Criminal law - respondent sentenced on charge of aggravated dangerous driving occasioning death - respondent's overall sentence was 4 years 6 months - Director of Public Prosecutions appealed on basis sentence manifestly inadequate - Director also contended judge erroneously failed to take offender's driving prior to accident into account, erroneously failed into account length of journey 'during which others were exposed to risk', and erred in assessment of offending's objective seriousness - s52A(2) *Crimes Act 1900* (NSW) - held: appeal allowed - respondent resentenced.

[View Decision](#)

White v R [2018] NSWCCA 156

Court of Criminal Appeal of New South Wales

Beazley P; Button & Fagan JJ

Criminal law - sexual offences against children - indictment contained 11 counts pertaining to sexual offences against child complainant - jury returned not guilty verdict on all counts except one - applicant appealed against guilty verdict - applicant contended that the verdict was unreasonable and could not be supported with regard to evidence, in particular the not guilty verdicts given on other counts - alleged weakness of complainant's evidence - whether, even if it was open to jury to find sexual intercourse occurred between applicant and complainant, it was open to jury to find offence occurred without complainant's consent - held: appeal dismissed.

[View Decision](#)

R v LAL [2018] QCA 179

Court of Appeal of Queensland

Sofronoff P; Crow & Ryan JJ

Criminal law - indecent treatment offences - applicant convicted of two offences of indecent treatment of child under 12 - applicant was juvenile at time of offences, and convicted as 32 year old - applicant sentenced to four months in prison for first count, and nine months in prison for second count - applicant became "reportable offender" under *Child Protection (Offender*

Reporting and Offender Prohibition Order) Act 2004 (Qld) and “disqualified person” under Working with Children (Risk Management and Screening) Act 2000 (Qld) - applicant sought leave to appeal against sentences - applicant sought probation with no recorded convictions - consequences of recorded conviction - likelihood of applicant re-offending - whether ‘harsher sentence’ warranted than sentence which might have been imposed on applicant as child - held: error by primary judge established - applicant to be released on entering recognisance on condition of good behaviour and that applicant ‘appear for conviction and sentence if called upon’ during ‘next two months’ - no recorded convictions - appeal allowed.

[LAL](#)

Banks v The State of Western Australia [2018] WASCA 130

Court of Appeal of Western Australia

Buss P; Mazza & Beech JJA

Criminal law - appellant found guilty of unlawfully assaulting complainant doing him bodily harm contrary to s317(1) *Criminal Code (WA)* - appellant sentenced to 18 months in prison - appellant appealed against conviction - whether misdirection or failure to make direction by trial judge in relation to jury’s use of evidence that appellant had been ‘sex worker and an illicit drug user’ - whether miscarriage of justice arising from continuation of trial in absence of juror, where juror was not discharged - held: ground of appeal contending misdirection upheld - there was miscarriage of justice arising from continuation of trial in jury’s absence - appeal allowed.

[Banks](#)



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Sonnet 76

By: William Shakespeare

Why is my verse so barren of new pride,
So far from variation or quick change?
Why with the time do I not glance aside
To new-found methods and to compounds strange?
Why write I still all one, ever the same,
And keep invention in a noted weed,
That every word doth almost tell my name,
Showing their birth and where they did proceed?
O, know, sweet love, I always write of you,
And you and love are still my argument;
So all my best is dressing old words new,
Spending again what is already spent:
For as the sun is daily new and old,
So is my love still telling what is told.

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

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