

Friday, 15 February 2019

Weekly Criminal Law

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

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Executive Summary

Gwilliam v R (NSWCCA) - criminal law - wounding with intent to cause grievous bodily harm - appeal against sentence dismissed

Mihelic v R (NSWCCA) - criminal law - drug offences - remorse not taken into account but no lesser sentence warranted - appeal against sentence dismissed

Samuels (a Pseudonym) v The Queen (VSCA) - criminal law - rape - making threat to kill - leave to appeal against sentence refused

Martin (a Pseudonym) v The Queen (VSCA) - criminal law - persistent sexual abuse of child - assault - intentionally causing injury - application for bail refused

R v Yow-Yeh (QCA) - criminal law - assault occasioning bodily harm - appeal against conviction dismissed

Summaries With Link (Five Minute Read)

Gwilliam v R [2019] NSWCCA 5

Court of Criminal Appeal of New South Wales

Simpson AJA; Walton & Wilson JJ

Criminal law - applicant pleaded guilty to wounding with intent to cause grievous bodily harm

contrary to s33(1)(a) *Crimes Act 1900* (NSW) - applicant sentenced to 13 years 6 months in prison with 8 years 6 months non-parole period - applicant sought to appeal against sentence - applicant contended findings were not supported by the evidence, that he was denied procedural fairness and that judge had erred in setting of non-parole period - held: appeal dismissed.

[View Decision](#)

Mihelic v R [2019] NSWCCA 2

Court of Criminal Appeal of New South Wales

Hoeben CJ at CL; Rothman & Price JJ

Criminal law - drug offences - applicant pleaded guilty to two offences under s25(2) *Drug Misuse and Trafficking Act 1985* (NSW) - applicant sentenced to 6 years in prison with 4 year non-parole period - applicant sought to appeal against sentence - applicant contended judge erroneously failed to find applicant remorseful and erroneously failed to find reduced culpability as result of police involvement - held: judge should have taken remorse and rehabilitation prospects into account - no lesser sentence was warranted - appeal dismissed.

[View Decision](#)

Samuels (a Pseudonym) v The Queen [2019] VSCA 14

Court of Appeal of Victoria

Beach & Weinberg JJA

Criminal law - applicant found guilty of two rape charges and one charge of making threat to kill - applicant sentenced to total effective sentence of 10 years 6 months in prison with 7 years 9 months non-parole period - judge refused applicant's application for leave to appeal against sentence - applicant sought to renew application, contending sentence was manifestly excessive - whether applicant's complaints 'reasonably arguable' - held: sentences imposed 'well open' - leave to appeal refused.

[Samuels](#)

Martin (a Pseudonym) v The Queen [2019] VSCA 15

Court of Appeal of Victoria

Beach & Weinberg JJA

Criminal law - bail - persistent sexual abuse of child - assault - intentionally causing injury - DPP appealed against sentence imposed on applicant for offences - applicant sought to appeal against convictions - applicant sought bail on basis of cancer diagnosis, life expectancy, compliance with bail orders and prospects of success - 'fresh evidence' - whether exceptional circumstances to justify bail being granted - held: application refused.

[Martin](#)

R v Yow-Yeh [2019] QCA 17

Court of Appeal of Queensland

Morrison & Philippides JJA; Boddice J

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Criminal law - applicant convicted of assault occasioning bodily harm - appellant appealed, contending verdict was unreasonable or could not be supported with regard to evidence - whether open to jury to be satisfied beyond reasonable doubt of applicant's guilt - taking of jury's verdict 'irregular in form' - whether miscarriage of justice - held: appeal dismissed.

[R v Yow-Yeh](#)



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A Sonnet to the Noble Lady, the Lady Mary Wroth

By: Ben Jonson

I that have been a lover, and could show it,
Though not in these, in rithmes not wholly dumb,
Since I exscribe your sonnets, am become
A better lover, and much better poet.
Nor is my Muse or I ashamed to owe it
To those true numerous graces, whereof some
But charm the senses, others overcome
Both brains and hearts; and mine now best do know it:
For in your verse all Cupid's armory,
His flames, his shafts, his quiver, and his bow,
His very eyes are yours to overthrow.
But then his mother's sweets you so apply,
Her joys, her smiles, her loves, as readers take
For Venus' ceston every line you make.

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

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