

Friday, 15 March 2019

Weekly Criminal Law

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

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Executive Summary

Attorney General for the State of New South Wales v Ceerose Pty Ltd (NSWCCA) - criminal law - appeal against penalty imposed for 'Category 2 offence' under *Work Health and Safety Act 2011* (NSW) - appeal allowed - penalty increased

Abdul v R (NSWCCA) - criminal law - drug offences - 'knowingly directing' criminal group's activities - youth - rehabilitation - applicant sought to appeal against sentence - leave to appeal refused

R v Thomas (QCA) - criminal law - 'indecent treatment' - appellant contended miscarriage of justice due to defence solicitor's conduct in making certain allegations - appeal dismissed

R v R, PA (SASCFC) - criminal law - appellant convicted of 'aggravated indecent assault' by Youth Court judge - appeal dismissed

Cole v The Queen (ACTCA) - criminal law - murder - inadequate explanation of nonparole period - appeal allowed - nonparole period reduced

Summaries With Link (Five Minute Read)

Attorney General for the State of New South Wales v Ceerose Pty Ltd [2019] NSWCCA 35
Court of Criminal Appeal of New South Wales

Beazley P; Fullerton & McCallum JJ

Criminal law - respondent pleaded guilty to 'Category 2 offence' under *Work Health and Safety Act 2011* (NSW) for breach of duty under s19(1) of the Act - judge imposed \$300,000 'monetary penalty' - Attorney General of New South Wales appealed against penalty - whether manifest inadequacy - whether failure to consider 'maximum penalty' - whether erroneous assessment of offence's 'objective seriousness' - whether Court should intervene - held: appeal allowed - penalty increased to \$600,000.

[View Decision](#)

Abdul v R [2019] NSWCCA 18

Court of Criminal Appeal of New South Wales

Bathurst CJ, Hoeben CJ at CL & Price J

Criminal law - applicant pleaded guilty to charges of supplying drugs and 'knowingly directing' criminal group's activities - judge imposed total sentence of 12 years 6 months - applicant sought to appeal against sentence - applicant contended judge erroneously failed to take into account applicant's youth and 'importance of rehabilitation' - held: leave to appeal refused.

[View Decision](#)

R v Thomas [2019] QCA 37

Court of Appeal of Queensland

Gotterson & Morrison JJA; Henry J

Criminal law - appellant found guilty of 'five counts of indecent treatment' against s210(1)(a) *Criminal Code* (Qld) - appellant contended miscarriage of justice arising from defence solicitor's conduct in making certain allegations - approach in *Libke v The Queen* [2007] HCA 30 - allegation of coaching of mother of complainant - allegation that mother of complainant did not tell details to constable - 'police corruption' allegation - allegation that prosecutor misled Court - whether jury was distracted 'from the proper and dispassionate examination of the issues' - held: Court satisfied there had been miscarriage of justice - appeal dismissed.

[R v Thomas](#)

R v R, PA [2019] SASCFC 19

Full Court of the Supreme Court of South Australia

Kourakis CJ; Nicholson & Parker JJ

Criminal law - appellant convicted by Youth Court 'judge sitting alone' of aggravated indecent assault - appellant acquitted on one of three counts - appellant contended trial had miscarried due to 'wrongful admission of evidence', failure of trial judge to 'direct herself' under s34CB *Evidence Act 1929* (SA), and 'prejudicial and inadmissible evidence' - appellant also sought to appeal on 'additional ground' that trial judge erroneously found complainants 'consistently maintained that they had never discussed detail of the appellant's actions' - held: permission to appeal on additional ground granted - appeal dismissed.

[R v R, PA](#)

Cole v The Queen [2019] ACTCA 3

Court of Appeal of the Australian Capital Territory

Murrell CJ; Elkaim & Charlesworth JJ

Criminal law - murder - appellant pleaded guilty to murdering deceased - appellant sentenced to 21 years in prison with 17 year 9 months nonparole period - appellant contended judge did not adequately explain nonparole period and that nonparole period was excessive - s65, Pt 5.2

Crimes (Sentencing) Act 2005 (ACT) - considerations important to sentencing - whether judge should have 'specifically stated the basis' on which nonparole period reached - held: appeal allowed - nonparole period reduced.

[Cole](#)



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Upon the Mountain's Distant Head

By: William Cullen Bryant

Upon the mountain's distant head,
With trackless snows for ever white,
Where all is still, and cold, and dead,
Late shines the day's departing light.

But far below those icy rocks,
The vales, in summer bloom arrayed,
Woods full of birds, and fields of flocks,
Are dim with mist and dark with shade.

'Tis thus, from warm and kindly hearts,
And eyes where generous meanings burn,
Earliest the light of life departs,
But lingers with the cold and stern.

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

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