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Weekly Criminal Law

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

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Executive Summary

Kliendienst v R (NSWCCA) - criminal law - 'using an offensive instrument with intent to commit an indictable offence' - 'reckless wounding' - appeal against 'aggregate sentence' allowed - applicant resentenced

Clark v The Queen (VSCA) - criminal law - parity - appellant and co-offender pleaded guilty to offences - no breach of parity principle - appeal against sentence dismissed

First International Merchant Bank Holdings Ltd v The State of Western Australia (WASC) - criminal property confiscation - defendant sought dismissal of plaintiffs' 'objection to confiscation of frozen property' - objection dismissed for want of prosecution

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Summaries With Link (Five Minute Read)

Kliendienst v R [2020] NSWCCA 98

Court of Criminal Appeal of New South Wales

Simpson AJA; Rothman & N Adams JJ

Criminal law - applicant pleaded guilty to 'using an offensive instrument with intent to commit an indictable offence' and 'reckless wounding' - applicant sought to appeal against 'aggregate sentence' of 4 years in prison with 2 years 3 months non-parole period - applicant contended judge erroneously applied principles in *R v Way* rather than principles in *Muldock v The Queen* (2011) 244 CLR 120, failed properly to assess 'moral culpability' of applicant 'in light of his difficult and violent upbringing' and erred in approach, or 'failed to provide proper reasons for' approach, to 'notional accumulation' - *Bugmy v The Queen* (2013) 249 CLR 571 - ss33B(1)(a) & 35(4) *Crimes Act 1900* (NSW) - held: appeal grounds concerning *R v Way* assessment of moral culpability upheld - appeal allowed - applicant resentenced.

[View Decision](#)

Clark v The Queen [2020] VSCA 125

Court of Appeal of Victoria

Maxwell P & T Forrest JA

Criminal law - parity - appellant and co-offender pleaded guilty to offences, 'the most serious' of which was 'home invasion' - appellant sentenced to 6 years in prison with 3 years 9 months non-parole period - co-offender sentenced to 3 years 9 months in prison with 1 year 9 months non-parole period - appellant was granted leave to appeal against sentence on ground that the 'sentencing differential' between appellant's sentence and co-offender's sentence infringed parity principle - roles in offending of appellant and co-offender - criminal records of appellant and co-offender - ss74 & 197(1) *Crimes Act 1958* (Vic) - s73 *Drugs, Poisons and Controlled Substances Act 1981* (Vic) - held: no breach of parity principle - appeal dismissed.

[Clark](#)

First International Merchant Bank Holdings Ltd v The State of Western Australia [2020] WASC 157

Supreme Court of Western Australia

Archer J

Criminal property confiscation - defendant sought dismissal of plaintiffs' 'objection to confiscation of frozen property' - *Criminal Property Confiscation Act 2000* (WA) - *Hancock Family Memorial Foundation Ltd v Fieldhous* [2005] WASC 93 - delay - held: objection dismissed for want of prosecution.

[First International Merchant](#)



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The Bee

By: Emily Dickinson

Like trains of cars on tracks of plush
I hear the level bee:
A jar across the flowers goes,
Their velvet masonry
Withstands until the sweet assault
Their chivalry consumes,
While he, victorious, tilts away
To vanquish other blooms.
His feet are shod with gauze,
His helmet is of gold;
His breast, a single onyx
With chrysoprase, inlaid.
His labor is a chant,
His idleness a tune;
Oh, for a bee's experience
Of clovers and of noon!

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

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