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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

Woodrum v R (NSWCCA) - criminal law - 'importing a marketable quantity of cocaine' - appeal against sentence allowed - sentence quashed - applicant resentenced

Priday v R (NSWCCA) - criminal law - 'assault occasioning actual bodily harm' - 'aggravated sexual intercourse without consent' - 'aggravated indecent assault' - appeal against convictions dismissed - leave to appeal against sentence refused

R v Culley (SASCFC) - criminal law - 'trafficking in a controlled drug' - manifest inadequacy in respect of 'effective sentence' - 'process error' in respect of non-parole period's calculation - appellant re-sentenced

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Summaries With Link (Five Minute Read)

Woodrum v R [2019] NSWCCA 270

Court of Criminal Appeal of New South Wales

Gleeson JA; Harrison & Cavanagh JJ

Criminal law - applicant pleaded guilty to 'importing a marketable quantity of cocaine' - applicant sentenced to 7 years 6 months in prison with 4 years 6 months non-parole period - applicant sought to appeal against sentence - Crown accepted sentencing judge erred concerning amount of cocaine imported by applicant and conceded Court should re-sentence applicant - s307.2(1) *Criminal Code 1995* - 'objective seriousness' - 'criminal record and good character' - 'subjective factors' - 'deterrence' - whether sentence's 'starting point' was 'extreme' - 'comparable cases' - context of applicant's inveiglement into performance of her role 'in expectation of a romantic outcome' - held: appeal allowed - sentence quashed - applicant resentenced.

[View Decision](#)

Priday v R [2019] NSWCCA 272

Court of Criminal Appeal of New South Wales

Macfarlan JA; Johnson & Lonergan JJ

Criminal law - appellant found guilty of 'assault occasioning actual bodily harm' and 'aggravated sexual intercourse without consent' - appellant sought to appeal against convictions and sentences - appellant also sought to appeal against sentence on offence of 'aggravated indecent assault' to which he had pleaded guilty - appellant challenged admission of 'hearsay representations' of complainant, and of police interview with appellant (ERISP) - appellant also challenged directions which trial judge did or did not give concerning ERISP - appellant also appealed concerning trial judge's misstatement in respect of 'mental element', concerning 'alleged improprieties' in closing address of Crown prosecutor and concerning 'alleged incompetence' of his counsel - appellant contended trial had miscarried due to "the combination of a number of errors by the Judge and of the conduct of the Crown Prosecutor and defence counsel" - ss59 & 61J(1) *Crimes Act 1900* (NSW) - held: appeal against convictions dismissed - leave to appeal against sentence refused.

[View Decision](#)

R v Culley [2019] SASCF 143

Full Court of the Supreme Court of South Australia

Kourakis CJ; Peek & Hughes JJ

Criminal law - respondent convicted of one count 'trafficking in a controlled drug' - Director of Public Prosecutions (DPP) sought to appeal against sentence - DPP contended there was 'manifest inadequacy and error' in respect of sentence - grounds of appeal concerned order for 'partial concurrency' with sentence respondent was serving and non-parole period's calculation pursuant to 'serious repeat offender provisions' in *Sentencing Act 2017* (Sentencing Act) - respondent cross-appealed - respondent contended finding that he was a 'serious repeat



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offender' was erroneous and that non-parole period 'incorrectly calculated' - held: manifest inadequacy established in respect of 'effective sentence' - 'process error' established in respect of non-parole period's calculation - appellant resentenced - respondent's cross-appeal dismissed.

[R v Culley](#)



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To Flush, My Dog

By: Elizabeth Barrett Browning
LOVING friend, the gift of one,
Who, her own true faith, hath run,
Through thy lower nature ;
Be my benediction said
With my hand upon thy head,
Gentle fellow-creature !

Like a lady's ringlets brown,
Flow thy silken ears adown
Either side demurely,
Of thy silver-suited breast
Shining out from all the rest
Of thy body purely.

Darkly brown thy body is,
Till the sunshine, striking this,
Alchemize its dulness, —
When the sleek curls manifold
Flash all over into gold,
With a burnished fulness.

Underneath my stroking hand,
Startled eyes of hazel bland
Kindling, growing larger, —
Up thou leapest with a spring,
Full of prank and curvetting,
Leaping like a charger.

Leap ! thy broad tail waves a light ;
Leap ! thy slender feet are bright,
Canopied in fringes.
Leap — those tasselled ears of thine
Flicker strangely, fair and fine,
Down their golden inches

Yet, my pretty sportive friend,
Little is 't to such an end
That I praise thy rareness !
Other dogs may be thy peers
Haply in these drooping ears,



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And this glossy fairness.

But of thee it shall be said,
This dog watched beside a bed
Day and night unwearied, —
Watched within a curtained room,
Where no sunbeam broke the gloom
Round the sick and dreary.

Roses, gathered for a vase,
In that chamber died apace,
Beam and breeze resigning —
This dog only, waited on,
Knowing that when light is gone,
Love remains for shining.

Other dogs in thymy dew
Tracked the hares and followed through
Sunny moor or meadow —
This dog only, crept and crept
Next a languid cheek that slept,
Sharing in the shadow.

Other dogs of loyal cheer
Bounded at the whistle clear,
Up the woodside hieing —
This dog only, watched in reach
Of a faintly uttered speech,
Or a louder sighing.

And if one or two quick tears
Dropped upon his glossy ears,
Or a sigh came double, —
Up he sprang in eager haste,
Fawning, fondling, breathing fast,
In a tender trouble.

And this dog was satisfied,
If a pale thin hand would glide,
Down his dewlaps sloping, —
Which he pushed his nose within,
After, — platforming his chin



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On the palm left open.

This dog, if a friendly voice
Call him now to blyther choice
Than such chamber-keeping,
Come out ! ' praying from the door, —
Presseth backward as before,
Up against me leaping.

Therefore to this dog will I,
Tenderly not scornfully,
Render praise and favour !
With my hand upon his head,
Is my benediction said
Therefore, and for ever.

And because he loves me so,
Better than his kind will do
Often, man or woman,
Give I back more love again
Than dogs often take of men, —
Leaning from my Human.

Blessings on thee, dog of mine,
Pretty collars make thee fine,
Sugared milk make fat thee !
Pleasures wag on in thy tail —
Hands of gentle motion fail
Nevermore, to pat thee !

Downy pillow take thy head,
Silken coverlid bestead,
Sunshine help thy sleeping !
No fly 's buzzing wake thee up —
No man break thy purple cup,
Set for drinking deep in.

Whiskered cats aointed flee —
Sturdy stoppers keep from thee
Cologne distillations ;
Nuts lie in thy path for stones,
And thy feast-day macaroons



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Turn to daily rations !

Mock I thee, in wishing weal ? —
Tears are in my eyes to feel
Thou art made so straightly,
Blessing needs must straighten too, —
Little canst thou joy or do,
Thou who lovest greatly.

Yet be blessed to the height
Of all good and all delight
Pervious to thy nature, —
Only loved beyond that line,
With a love that answers thine,
Loving fellow-creature !

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

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