

Friday, 26 April 2019

Weekly Criminal Law

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

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Executive Summary

Sumrein v R (NSWCCA) - criminal law - 'possessing a loaded firearm in a public place' - leave to appeal against sentence granted - appeal allowed

Director of Public Prosecutions (NSW) v GX (NSWCCA) - criminal law - bail - respondent granted 'conditional bail' - application for 'detention order' in respect of respondent granted

Le v The Queen (VSCA) - criminal law - drug offences - importation of 'a commercial quantity of heroin' - leave to appeal against sentence refused

R v W, R (SASCFC) - criminal law - primary judge erred in finding respondent 'unfit to stand trial' - appeal allowed

Day v The Queen (WASCA) - criminal law - 'attempted importation' of 'firearms and ammunition' - 'dealing with money or other property with the intent that it become an instrument of crime' - leave to appeal against sentence allowed - appeal dismissed

Summaries With Link (Five Minute Read)

Sumrein v R [2019] NSWCCA 83

Court of Criminal Appeal of New South Wales
Leeming JA; Ierace J & Hidden AJ

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Criminal law - applicant pleaded guilty to 'possessing a loaded firearm in a public place' - taking into account two matters on form 1, applicant sentenced to 3 years and 9 months in prison with 2 year non-parole period - applicant sought to appeal against sentence - whether erroneous assessment offence's 'objective seriousness' - whether sentence manifestly excessive - whether erroneous assessment of culpability - whether judge should have taken into account applicant's 'motive for obtaining the gun' - s93G(1)(a)(i) *Crimes Act 1900* (NSW) - held: leave to appeal granted - appeal allowed - applicant resentenced.

[View Decision](#)

Director of Public Prosecutions (NSW) v GX [2019] NSWCCA 84

Court of Criminal Appeal of New South Wales

Johnson, R A Hulme & Wright JJ

Criminal law - bail - Judge of Supreme Court ('Bails Judge') granted respondent 'conditional bail' - Director of Public Prosecutions (NSW) filed 'detention application' concerning respondent under s50 *Bail Act 2013* (NSW) - whether 'unacceptable risk' respondent would fail to appear at proceedings, would commit 'serious offence', and would endanger community's safety - held: detention application granted.

[View Decision](#)

Le v The Queen [2019] VSCA 80

Court of Appeal of Victoria

Beach, McLeish & Weinberg JJA

Criminal law - drug offences - applicant pleaded guilty 'to having imported a commercial quantity of heroin' - applicant sentenced to 10 years in prison with 6 years 6 months non-parole period - applicant sought to appeal against sentence - applicant's role - applicant's involvement in importation - prospects of appeal - whether factual errors - whether sentence moderate - held: application for leave to appeal lacked merit - leave to appeal refused.

[Le](#)

R v W, R [2019] SASCFC 33

Full Court of the Supreme Court of South Australia

Blue, Stanley & Lovell JJ

Criminal law - District Court judge respondent 'mentally unfit to stand trial' under s269H *Criminal Law Consolidation Act 1935* (SA) - applicant appealed - whether accused 'so mentally impaired' he could not 'obtain a fair trial' - which accused proved lack of capacity to exercise 'choice whether or not to give evidence', to understand oath's requirements, and 'to give his version of the facts in response to questions' - held: primary judge erred in finding respondent unfit to stand trial - appeal allowed.

[R v W, R](#)

Day v The Queen [2019] WASCA 60

Court of Appeal of Western Australia



Buss P, Mazza JA & Allanson J

Criminal law - appellant pleaded guilty to 'attempted importation' of 'firearms and ammunition' (Count 1) and to 'dealing with money or other property with the intent that it become an instrument of crime' (Count 2) - appellant sought to appeal, contending individual sentences were each excessive, and that 'total sentence and the non-parole period' were disproportionate to 'total criminality' - offences' circumstances - 'personal circumstances' of appellant - sentencing standards - s233BAB(5) *Customs Act 1901* (Cth) - s400.6(1) *Criminal Code 1995* (Cth) - held: leave to appeal granted - appeal dismissed.

[Day](#)



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From: The Tempest

By: William Shakespeare, 1564 - 1616

Come unto these yellow sands,
And then take hands:
Court'sied when you have, and kiss'd,--
The wild waves whist--
Foot it featly here and there;
And, sweet sprites, the burthen bear.
Hark, hark!
Bow, wow,
The watch-dogs bark:
Bow, wow.
Hark, hark! I hear
The strain of strutting chanticleer
Cry, Cock-a-diddle-dow!

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