

This is a summary of hearings scheduled to be listed in the Court of Criminal Appeal from Monday 2 October to Friday 3 November. Grounds of appeal are summarised as at the date of this document. The grounds represent *assertions* made on behalf of the appellant/applicant as to error in the Court below. Grounds may subsequently be abandoned and/or amended. The attached table does not refer to any grounds of appeal concerning any assistance the applicant may have given to law enforcement agencies.

**This summary does not purport to provide a definitive indication of whether non-publication (“NPO”) and/or suppression orders apply to a particular case. For some appeals, such as interlocutory applications in current or pending trials, a formal NPO might not be in place but caution should still be exercised in publishing material about the appeal to avoid the risk of prejudice to a current or pending trial.**

Date 2023	Case No.	Applicant	Respondent	Offence(s); Sentence (+ expiry date)	Judge at first instance; Date of sentence	Type of appeal	Time Estimate (hours)	Grounds of appeal
Monday 9 October								
	2017/186919	CUNNEEN	NSWDPP	Accessory after fact for murder 7y 6m; NPP 4y (exp. 26/5/26)	Mahony SC DCJ 25/11/22	C 6 week trial	5	<b>Statutory NPO applies to VIS;</b> <ul style="list-style-type: none"> <li>Whether trial judge erred in admission of the principal’s certificate of conviction;</li> <li>Inadequate directions pertaining to elements of offence;</li> <li>Inadequate response to jury question as to whether knowledge of principal’s intent is sufficient to amount to accessory before the fact;</li> <li>Whether trial judge erred in the admission of evidence, including the admission of text messages and ERISP hearsay evidence which was only admissible in a limited sense ;</li> <li>Whether trial judge misdirected the jury about statements made by the principal;</li> <li>Unreasonable verdict.</li> </ul>

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Wednesday 11 October								
	2020/13125	JENKINSON	NSWDPP	Deal with proceeds of crime; Supply drug <b>ICO 2y 6m (exp. 12/4/25)</b>	Bennett SC DCJ 13/6/22	C	5	<b>Judge-alone trial;</b> <ul style="list-style-type: none"> <li>Whether trial judge erred in holding that the expression of 'preparation, admixture, extract or other substance' in <i>Drug Misuse and Trafficking Act 1985</i> (NSW) s 4 can include unaltered organic matter in which a prohibited drug is naturally found;</li> <li>Where this construction led the judge to erroneously find the applicant guilty of commercial supply.</li> </ul>
	2021/11759	HOCKLEY	NSWDPP	Sexual assault (child); Possess child abuse material; <b>6y; NPP 3y 7m (exp. 14/8/24)</b>	Beckett DCJ 13/4/23	S	1	<b>Statutory NPO – complainant;</b> <ul style="list-style-type: none"> <li>Manifest excess;</li> <li>Whether the sentencing judge failed to properly account for the accumulation of indicative sentences.</li> </ul>
	2021/112608	ROBERTSON	NSWDPP	Supply drug; <b>6y; NPP 3y 6m (exp. 21/10/24)</b>	McLennan SC DCJ 24/5/22	S	1.5	<ul style="list-style-type: none"> <li>Whether sentencing judge erred in assessment of objective seriousness;</li> <li>Whether the sentencing judge erred in relation to subjective case by failing to account for various <i>Bugmy</i> factors;</li> <li>Manifest excess.</li> </ul>

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Friday 13 October								
	2020/297930	BQL	NSWDPP	Maintain unlawful sexual relationship (child); Buggery 7y 6m; NPP 4y (exp. 15/10/24)	Mahony SC DCJ 15/7/22	C	1	<p>Statutory NPO applies to identity of complainants; Appeal turns on CCA decision in <i>MK</i>; <i>RB</i> [2023] NSWCCA 180 and the subsequent special leave application to the High Court;</p> <p>Applicant to be assisted by Mandarin interpreter;</p> <ul style="list-style-type: none"> <li>Whether trial judge gave erroneous directions as to the elements of offence.</li> </ul>

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Monday 16 October								
	2021/92619 2021/221872	CARR	NSWDPP	Assault with intent to rob in company and whilst armed; Possess firearm; Take and drive; Carried in conveyance <b>4y; NPP 22m (exp. 2/8/23)</b>	M Williams SC DCJ 8/12/22	C	1	<ul style="list-style-type: none"> <li>Whether the trial judge erred in determining that the availability of the duress defence turned on evidence of specific, direct and overt demand.</li> </ul>
	2018/91930	P	NSWDPP	Manufacture drug <b>7y 6m; NPP 5y (exp. 22/11/24)</b>	Turnbull SC DCJ 19/10/20	S	2	<b>Out of time</b> <ul style="list-style-type: none"> <li>Parity, where co-offenders have had successful appeals in the NSWCCA: C [2022] NSWCCA 285; Z [2022] NSWCCA 286; SF [2022] NSWCCA 216</li> </ul>

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Wednesday 18 October								
	2019/136166	AGNEW	NSWDPP	Sexual assault; Supply drug <b>9y 6m; NPP 5y 10m (exp. 7/12/26)</b>	McLennan SC DCJ 28/9/21	C	2	<b>NPO applies in relation to the complainant; Out of time;</b> <ul style="list-style-type: none"> <li>Whether trial judge erred in relation to the element of knowledge and a lack of consent;</li> <li>Unreasonable verdicts.</li> </ul>
	2020/164701	STB	NSWDPP	Sexual assault (child) <b>8y 2m; NPP 4y 9m (exp. 1/3/25)</b>	Traill DCJ 15/07/22	S	1	<b>Applicant to be assisted by Spanish interpreter; Statutory NPO applies in relation to complainant;</b> <ul style="list-style-type: none"> <li>Whether sentencing judge erred in relation to subjective case by failing to make findings as to applicant's prospect of rehabilitation, remorse and lack of prior convictions.</li> </ul>

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Friday 20 October								
	2019/281923	ZL	NSWDPP	Sexual/indecent assault (child) CCO 2y (exp. 11/5/23)	Sutherland SC DCJ 12/5/21	C	2	Statutory NPO applies to identity of complainant and appellant; Out of time; <ul style="list-style-type: none"> <li>Unreasonable verdicts.</li> </ul>
	2020/194813	SM	NSWDPP	Use child to make child abuse material;	Grant DCJ 16/6/23	5D	1	5D = Crown appeal against sentence; <ul style="list-style-type: none"> <li>Manifest Inadequacy .</li> </ul>
	2020/328905	PM		Indecent assault; Use carriage service – solicit and make child abuse material 7y 6m; NPP 47 (exp. 30/6/24)				

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Monday 23 October								
	2020/107184	WA	NSWDPP	Indecent assault (child) 7y 6m; NPP 4y 6m (exp. 9/2/25)	Shead SC DCJ 13/7/22	C & S	1.5	<b>Statutory NPO in relation to complainant; Judge-alone trial;</b>  <b>Conviction</b> <ul style="list-style-type: none"> <li>Unreasonable verdicts;</li> </ul> <b>Sentence</b> <ul style="list-style-type: none"> <li>Manifest excess.</li> </ul>
	2013/165188	JENKINS	NSWDPP	Aggravated sexual assault (child) and related offences 21y; NPP 14y 6m (exp. 7/8/30)	Delaney ADCJ 17/10/16	C & S	2.5	<b>Out of time;</b> <b>Applicant is self-represented;</b> <ul style="list-style-type: none"> <li>Applicant contends that his financial circumstances forced him to plead guilty;</li> <li>Applicant contends that errors exist in fact;</li> <li>Applicant contends manifest excess.</li> </ul>

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Wednesday 25 October								
	2019/76122	ZAIDAN	NSWDPP	Sexual assault (child) x10 On bail	M Williams SC DCJ 18/8/23	5F(3A) and 5F(2)	2	<p>Statutory NPO applies in relation to the complainants Arabic interpreter; 5F = appeal against pre-trial interlocutory judgment and order; Trial listed for 29/01/2023;</p> <ul style="list-style-type: none"> <li>• Appeal against the ruling that tendency evidence was inadmissible (cross-admissibility of complainant's evidence);</li> <li>• Appeal against order for separate trials for two complainants.</li> </ul>
	2017/188331	DI	NSWDPP	Aggravated sexual assault (child) 3x limiting terms imposed after special hearing - 7 years, partially accumulated from 25/2/21 (total term expires on 24/2/31)	Baly SC DCJ 18/3/22	C 2-week special hearing	2	<p>Statutory NPO applies to complainant and other child witnesses; Special hearing pursuant to <i>Mental Health (Forensic Provisions) Act 1990</i>; Where co-accused acquitted: <i>R v SC</i> [2023] NSWCCA 60 Out of time;</p> <ul style="list-style-type: none"> <li>• Whether the conclusion that applicant had committed offences was unreasonable;</li> <li>• Whether trial judge erred in treatment of complaint evidence, forensic disadvantage;</li> <li>• Whether trial judge failed to comply with s 21B of <i>Mental Health (Forensic Provisions) Act 1990</i></li> </ul>



<div></div>	2020/247115	HORNE	NSWDPP	Sexual assault	Hatzistergos DCJ	S	1	Statutory NPO applies to the identity of complainant;
				5y 3m	26/5/22			Out of time;
				NPP 3y 4m (exp.				Sentenced following trial;
				18/4/24)				<ul style="list-style-type: none"><li>Where psychologist’s handwritten notes demonstrating that the applicant was sexually abused prior to seeing psychologist were not tendered.</li></ul>

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Friday 27 October								
	2020/265255	CAI	CDPP	Possess suspected proceeds of crime <b>7y 6m; NPP 4y (exp. 14/4/26)</b>	O'Rourke SC DCJ 16/6/22	C 1 week trial	2	<b>Applicant to be assisted by Cantonese interpreter;</b> <ul style="list-style-type: none"> <li>Parity;</li> <li>Manifest excess.</li> </ul>
	2021/61883	MA	CDPP	Intentional dealing with proceeds of crime <b>7y; NPP 4y (exp. 9/8/24)</b>	O'Rourke SC DCJ 22/7/22	S	1	<b>NPO applies to various aspects of the matter;</b> <ul style="list-style-type: none"> <li>Whether sentencing judge erred by failing to consider certain factors set out in the <i>Crimes (sentencing procedure) Act 1999</i> (NSW) as requiring the imposition of a lesser sentence.</li> </ul>
	2021/46591	WW	NSWDPP	Sexual and indecent assault (child); Buggery <b>10y; NPP 6y (exp. 9/6/28)</b>	English DCJ 1/8/22	S	1.5	<b>Statutory NPP applies to identity of complainants</b> <ul style="list-style-type: none"> <li>Whether sentencing judge erred in relation to subjective case by failing to account for various factors including the applicant's youth, mental health and the impact of childhood sexual abuse;</li> <li>Whether sentencing judge failed to give weight to general and specific deterrence.</li> </ul>

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Monday 30 October								
	2021/157911	NSWDPP	BH	Indecent and sexual assault (child) <b>14y; NPP 9y (exp. 16/2/32)</b>	Flannery SC DCJ 30/6/23	5D	1.5	<b>5D = crown appeal against sentence;</b> <b>Statutory NPO applies in relation to complainants;</b> <ul style="list-style-type: none"> <li>Manifest inadequacy.</li> </ul>
	2019/50393	INGRAY	NSWDPP	Aggravated break and enter with intent; Steal motor vehicle; Take and drive <b>11y 6m; NPP 8y (exp. 31/3/27)</b>	King SC DCJ 15/2/22	S	2	<b>Sentenced after trial on 4 charges and pleas on 20 other charges;</b> <b>Where conviction appeal for co-offenders dismissed: <i>Haines v R</i>; <i>Brown v R</i> [2023] NSWCCA 108;</b> <b>Out of time;</b> <b>Applicant sentenced following trial;</b> <ul style="list-style-type: none"> <li>Whether sentencing judge erred in relation to the subjective case including finding no evidence of remorse;</li> <li>Whether sentencing judge failed to account for impact of Covid-19;</li> <li>Manifest excess.</li> </ul>
	2020/275723	PRIMMER	NSWDPP	Demand property with intent to steal <b>4y; NPP 2y 6m (exp. 21/3/25)</b>	Ingram SC DCJ 3/6/22	S	1	<ul style="list-style-type: none"> <li>Whether sentencing judge erred in determination of commencement date where the commencement date did not account for the impact of delay and the reasons for revocation of parole for an earlier offence pursuant to s 47 of the <i>Crimes (Sentencing Procedure) Act 1999</i> (NSW);</li> <li>Manifest excess.</li> </ul>

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Wednesday 1 November								
	2022/60511	FLENTJAR	NSWDPP	Aggravated dangerous driving (occasioning grievous bodily harm) and related driving charges <b>5y; NPP 3y (exp 1/4/25)</b>	Haesler SC DCJ 1/2/23	S	1	<ul style="list-style-type: none"> <li>Whether sentencing judge failed to account for intellectual disability and the applicant's background of profound disadvantage in determining deterrence.</li> </ul>
	2022/101464	DG	NSWDPP	Firearms offences <b>3y 6m; NPP 2y 4m (exp. 7/8/24)</b>	O'Rourke SC DCJ 6/4/23	S	1	<p><b>NPO applies to various aspects of the matter;</b></p> <ul style="list-style-type: none"> <li>Whether sentencing judge failed to make a proper assessment of community safety when determining the appropriateness of an ICO per s 66(2) of the <i>Crimes (sentencing procedure) Act 1999</i> (NSW);</li> <li>Whether the sentencing judge erred in evaluation of non-exculpatory duress;</li> <li>Whether sentencing judge erred by failing to consider certain factors set out in the <i>Crimes (sentencing procedure) Act 1999</i> (NSW) as requiring the imposition of a lesser sentence Unreasonable verdicts.</li> </ul>

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Friday 3 November								
	2020/304824	HABAMBO	NSWDPP	Domestic violence related offences x34 including assault occasioning actual bodily harm) CCO exp. 16/2/26 10y NPP 6y (exp. 3/10/28) – bail revoked on 29/08/23	Culver DCJ 17/2/23	C & S 6-week trial	3	<b>Conviction</b> <ul style="list-style-type: none"> <li>Whether judge erred in admission of irrelevant, prejudicial and inadmissible opinions contained in text message screenshots between the complainant and the applicant's sister;</li> <li>Alleged incompetence of Counsel;</li> </ul> <b>Sentence</b> <ul style="list-style-type: none"> <li>Whether judge erred in findings relating to intimidation;</li> <li>Whether sentencing judge erred in determination of objective seriousness;</li> <li>Manifest excess.</li> </ul>
	2020/356594	LIN	CDPP	Convey tobacco products with intent to defraud 2y – partially suspended from 25/5/24	Wass SC DCJ 26/5/23	S	1	<b>Mandarin interpreter required by the applicant</b> <ul style="list-style-type: none"> <li>Whether sentencing judge erred in finding that applicant lied to police and finding this to be relevant in relation to applicant's remorse;</li> <li>Whether sentencing judge erred in findings relating to the need for specific deterrence;</li> <li>Parity.</li> </ul>