

MENTAL ILLNESS / SENTENCING / SPECIAL HEARINGS / FITNESS

Sentencing

R v FAHDA [1999] NSWCCA 267

R v JARMAN [2001] NSWCCA 178

R v John Michael MITCHELL [1999] NSWCCA 120

Regina v Edward Henry Champion (unreported) NSWCCA, Thursday 8 October 1992, Kirby P, Sully J, Lee A-J

Regina v Ninus Scognamiglio (unreported) NSWCCA, 23 August 1991, Clarke JA, Grove JA, Newman JA

R v Martin John LETTERI [1992] NSWCCA, 18 March 1992, Gleeson CJ, Sheller JA, Badgery-Parker J

R v James Peter Anthony ENGERT [1995] NSWCCA 20 November 1995

R v Dean William WRIGHT [1997] NSWCCA 28 Feb 1997

Mental Illness

Regina v Derbin [2000] NSWCCA 361 - drug induced psychosis

R v Line (unreported) [2004] NSWSC 1148 – s39 – release from court

R v Tonia Piper [2005] NSWCCA 134 - strict liability offences

On 7 April 2005 the CCA heard a section 5F (Crim. Appeal Act) application brought by the Crown challenging a decision by Hosking DCJ to permit the Defence to admit evidence that an accused charged with a strict liability offence was mentally ill at the time, so as to activate the mental illness (m'naghten) defence. The CCA dismissed the appeal on the basis that section 5F did not permit a party to challenge a ruling on the admissibility of evidence at the outset of a trial. The issue is interesting, and Hosking's decision is worth reading, if you ever have a similar issue; he canvassed judgements widely, including from the UK, and expressed some reservations as to its applicability to "regulatory offences". The CCA indicated a further relevant case to be added to that list.

Judge alone fitness trial

Regina v Stephen Misfud (unreported) NSWCCA, 8 November 1995, Gleeson CJ, Levine & Dowd JJ

Special Hearing

R v Mailes [2001] NSWCCA 155

Regina v Graham Edward Mailes (unreported) New South Wales Supreme Court, 27 April 1994, Badgery-Parker J

R v Malcolm Anthony BOYLE [1992] SC NSW (18 September 1992)

R v John Michael MITCHELL [1999] NSWCCA 120

KESAVARAJAH v The Queen [1994] HCA

R v ZVONARIC [2001] NSWCCA 505 (14 December 2001)

R v HELMHOUT [2001] NSWCCA 372 (19 September 2001)

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SAMIEL MAWAS v DPP [2005] NSWSC 243