

EXAMPLE ONE

POLICE v [OFFENDER'S NAME]

MT DRUITT LOCAL COURT – 5 MAY 2020

OUTLINE OF SUBMISSIONS

The ultimate submission

1. Full-time imprisonment is conceded. The Court could:
 - i. Find special circumstances.
 - ii. Commence the sentence on 1 July 2019 (date of arrest).
 - iii. Structure the sentence to allow the offender's release on parole in the near future.
2. This is an appropriate outcome for 5 reasons (considered individually and/or cumulatively).

One: the circumstances of the offender's release on parole set her up to fail

3. On 1 June 2019, the offender was released on parole. NSWCS case note at [3] confirms that:
 - i. She was not released to a COSP or supported/transition accommodation: cf Dr Bloggs at [10]; SPA recommendation, and; the offender's preference (see NSWCS case note at [2]).
 - ii. There was no "intensive case management plan": cf Dr Bloggs at [10].
 - iii. She was released to emergency temporary accommodation in Shalvey: cf Dr Bloggs at [10] and offender's concerns about returning to the Mt Druitt area (see NSWCS case note at [2]).

Two: the offending is at the lower end of the scale for offences of similar type.

4. Not at the lowest end because there was the use of a weapon. However:
 - i. There is evidence of provocation.
 - ii. The offending was of short duration.
 - iii. It was impulsive and spontaneous.
 - iv. The injury is at the lower end of actual bodily harm.

Three: the principles in *Bugmy* apply

5. The offender had a disadvantaged upbringing:
 - i. Early introduction to drugs and alcohol: Dr. Bloggs at [4]

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- ii. Modelled violence and aggression from a young age: Dr. Bloggs at [5]
 - iii. No relationship with her father. Her mother was a drug addict. She was living on the streets by the age of 14: Dr. Bloggs at [6].
6. The offenders' disadvantaged upbringing explains the offending: *Perkins v R* [2018] NSWCCA 62 at [40]-[42]. Therefore:
- i. Her moral culpability is reduced.
 - ii. She is not an appropriate vehicle for the full force of general deterrence.

Four: the sentence should commence on 1 July 2019 (the date of arrest)

7. The period in custody from 1 July 2019 is referable both to this matter and the revocation of parole:
- i. The offender was arrested and bail refused on 1 July 2019.
 - ii. The offender was on parole at the time of the offence. Parole was revoked. She is serving the balance of parole which will expire on 10 December 2020.
8. The Court should back-date the sentence to the date of her arrest:
- i. The commission of this offence is the sole reason for the revocation of parole.
 - ii. The balance of the term of parole to which the offender is exposed is lengthy: cf *Callaghan v R* [2006] NSWCCA 58 at [24].

Five: there are special circumstances warranting a substantial variation of the statutory ratio

9. There are prospects of rehabilitation (insight into factors contributing to her offending, expressions of remorse, and completion of programs in custody). Those prospects would be assisted by a longer parole period: *R v Lulham* [2016] NSWCCA 287 at [7].
10. Specifically, an extended period on parole subject to intensive supervision will address:
- i. The risk of institutionalisation: see *Jinnette v R* [2012] NSWCCA 217 at [103]; *Hart v R* [2014] NSWCCA 172 at [51]-[59]. The offender has spent over 80% of the last 7 years in custody.
 - ii. Her addiction to illicit substances.
 - iii. The connection between her offending and her disadvantaged background.

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11. If the statutory ratio is varied, the non-parole period will still reflect all the principles of punishment: *Thach v R* [2018] NSWCCA 252 at [42].

Name

Solicitor, Organisation

Date

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