

**IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY**

NO S114 OF 2013

On appeal from the
Supreme Court of New South Wales Court of Criminal Appeal

BETWEEN

BONANG DARIUS MAGAMING

Appellant

AND:

THE QUEEN

Respondent



RESPONDENT'S SUBMISSIONS

Filed on behalf of the Respondent by:
Commonwealth Director of Public Prosecutions
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PART I CERTIFICATION

1. This submission is in a form suitable for publication on the Internet.

PART II ISSUES

2. This appeal presents the issues set forth in the Appellant's Submissions filed on 12 July 2013 at [4](a) and (b).

PART III NOTICE IN COMPLIANCE WITH SECTION 78B OF THE JUDICIARY ACT 1903

3. The Respondent considers that the notices given by the Appellant are sufficient.

10 **PART IV MATERIAL FACTS**

4. The Respondent takes no issue with the material facts set out in the Appellant's Submissions at [9]-[17] or with those set out in the Appellant's Chronology filed on 12 July 2013.

PART V LEGISLATIVE PROVISIONS

5. The Respondent accepts the legislative history set forth in the Appellant's Submissions at [20]-[26].

PART VI ARGUMENT

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6. The Respondent adopts and relies on the argument submitted on behalf of the Attorney General of the Commonwealth (intervening), save in respect of order 3 sought by the Appellant¹ which the foregoing does not address.

Sentence

7. The Respondent submits that in the event the appeal is upheld order 3 as sought by the Appellant should be made. The Respondent accepts

¹ Appellant's Submissions at 20 [112].

the correctness of the last sentence of the Appellant's submissions at 20 [110].²

PART VII RESPONDENT'S NOTICE OF CONTENTION OR NOTICE OF CROSS APPEAL

8. Not applicable.

PART VIII ESTIMATED TIME FOR ORAL ARGUMENT

9. It is estimated that the Respondent's oral argument will be presented within one quarter of an hour, subject to such questions as may arise.

Dated: 2 August 2013

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² In its Supplementary Submissions on Re-sentencing filed in the Court of Criminal Appeal on 22 November 2012 the Respondent accepted that if the impugned legislation was invalid the sentence imposed on the Appellant required review. The Respondent submitted, in the event of legislative invalidity, that the sentence imposed was not within the range of sentences appropriate for the offence (having regard to all relevant sentencing factors pertaining to the Appellant).