

BETWEEN:



JASON LEE (A.K.A DO YOUNG) LEE

First Appellant

SEONG WON LEE

Second Appellant

10 AND

NEW SOUTH WALES CRIME COMMISSION

Respondent

APPELLANTS' CHRONOLOGY

Part I:

I certify that this chronology is in a form suitable for publication on the internet.

Part II:

20 The original proceedings and intermediate court of appeal proceedings leading to this appeal are highlighted in bold.

The remainder of entries summarise the related criminal proceedings.

25 February 2009 First appellant charged with two offences contrary to s193B(2) *Crimes Act* (deal knowingly with proceeds of crime, referred to hereafter as "**the first money laundering charges**"); two offences contrary to s10 *Drug Misuse and Trafficking Act* (possess prohibited drug) and one offence contrary to s527C (1)(c) *Crimes Act 1900* (goods in custody) and other offences.

30 25 February 2009 First appellant remanded in custody on 25 February 2009 charges.

16 March 2009 First appellant granted conditional bail on 25 February 2009 charges.

26 November 2009 First appellant compulsorily examined pursuant to *New South Wales Crime Commission Act* (NSWCC Act).

1 December 2009 First appellant compulsorily examined pursuant to NSWCC Act.

Filed on behalf of the First and Second Appellants
THE FIRST AND SECOND APPELLANTS' SOLICITOR IS: Nyman Gibson Stewart
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Reference: Dennis Miralis
Dated: 22 March 2013

- 7 December 2009 Second appellant charged with three firearms offences contrary to s7(1) *Firearms Act* 1996 (possess prohibited firearm). Second appellant remanded in custody for these offences.
- 14 December 2009 First appellant charged with two offences contrary to s7(1) *Firearms Act* 1996 and a further offence of goods in custody contrary to s527C (1)(c) *Crimes Act* (referred to hereafter as “the second money laundering charge”). First appellant remanded in custody on these offences.
- 10 16 December 2009 Second appellant compulsorily examined pursuant to NSWCC Act.
- 24 December 2009 Second appellant granted bail in relation to firearms offences.
- 12 May 2010 All charges except possession of drugs offences laid on 25 February 2009 withdrawn and dismissed, following representations to the DPP. (However, see 14 March 2011 entry below).
- 20 13 May 2010 First and second appellants charged with offences of supply prohibited drugs contrary to the *Drug Misuse and Trafficking Act* 1985 (NSW), in relation to substances found during the execution of the search warrant on 7 December at the same time as the cash the subject of the second money laundering charge.
- 30 NSWCC files a summons seeking restraining orders (on an ex parte basis) pursuant to s10A *Criminal Asset Recovery Act* 1990 (“CARA”) in respect of property suspected to be that of the first appellant and his wife. Summons also seeks ex parte orders for examination of the first and second appellants pursuant to s12 (1) *CARA*. In same summons NSWCC make an application for an order pursuant to s27 *CARA* for a proceeds assessment order (see prayer [9]) (ie. a confiscation order).
- Ex parte orders made by the Supreme Court (Buddin J) including orders restraining property and permitting examination on oath of the first and second appellant.
- 17 May 2010 Second appellant remanded in custody.
- 4 June 2010 Motion filed by the first appellant seeking to set aside restraining orders of Buddin J.
- 40 **10 June 2010** NSWCC file notice of motion in Supreme Court seeking inter partes examination orders for the first and second appellants under s31D *CARA*.
- 11 June 2010 The first and second appellant (and the first appellant’s wife) file summons seeking leave to appeal against all orders made by Buddin J apart from the restraining orders.

- 28 June 2010** The Supreme Court (Hulme J) hears the motion of the NSWCC for inter partes examination orders.
- 22 November 2010 First and second appellants arraigned in the District Court before his Honour Judge Solomon QC.
- 23 November 2010 Judge Solomon QC grants a separate trial application in relation to the second money laundering charge, however his Honour allows evidence in relation to that same \$1.147 million cash to be used in proof of the drugs and firearms counts. The separate trial for money laundering is adjourned to commence at a date to be fixed.
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- 17 January 2011 Trial of drugs and firearms offences commences before Judge Solomon QC and a jury, but the jury is discharged on 28 January 2011.
- 31 January 2011 Trial of the drugs and firearms counts re-commences before Judge Solomon and a jury, with evidence of the cash (the subject of the second money laundering charge) led in the trial.
- 20 **28 February 2011** Judgment delivered by Hulme J declining to make examination orders “at that stage” for the first and second appellants, but granting examination orders for two others (the first appellant’s wife and Mr Pak).
- The first and second appellants still on trial before Judge Solomon QC and a jury in the District Court.
- 2 March 2011** NSWCC file notice of intention to appeal to the Court of Appeal from orders of Hulme J.
- 30 14 March 2011 All 25 February 2009 offences previously withdrawn, (on 12 May 2010) including the first money laundering charges, are re-instated in the Local Court.
- 16 March 2011 The jury in the trial before Judge Solomon QC returned verdicts. First appellant found not guilty of four firearms offences (Counts 1-4) but guilty of two counts of supply drugs (Counts 6 and 8) and one count of possess firearm (Count 5). Second appellant found not guilty of substantive drug possession offence (Count 6) but guilty of alternative count of being knowingly concerned in first appellant’s supply of drugs (Count 7) and guilty of possession of firearms (Counts 1-4). Criminal proceedings stood over for sentencing.
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- 21 June 2011 NSWCC again seek s31D examination orders in relation to the first and second appellants in the Supreme Court, before Garling J. NSWCC concedes that the examination would be directed to subject matter that was also the subject of the outstanding money laundering proceedings.

- 10 August 2011 Garling J dismisses the motion for examination orders as an abuse of process.
- 6 December 2011 First and second appellants convicted and sentenced by Judge Solomon QC for the drugs and firearms offences. The overall sentence for the first appellant was twelve and a half years with a non parole period of eight and a half years to date from 14 December 2009. The overall sentence for the second appellant was seven and a half years with a non parole period of four and a half years to date from 30 April 2010.
- 10 13 December 2011 First appellant's sentence on Count 5 expired, having been served in full.
- 16 February 2012 Permanent stay of all charges from 25 February 2009 granted in the Local Court by Magistrate Berry, including the first money laundering charge (however, see entry for 18 May 2012).
- 18 April 2012 Appeal of convictions of first and second appellants lodged in Court of Criminal Appeal (CCA).
- 20 1 May 2012 Ex officio indictment filed in the Sydney District Court in relation to the first money laundering charges (see above: this charge had been stayed in Local Court on 16 February 2012).
- 18 May 2012 First appellant arraigned on the indictment charging the first money laundering charges.
- 9 August 2012 Court of Appeal (Beazley, McColl, Basten, Macfarlan and Meagher JJA) hears simultaneously the application for leave to appeal and appeal of the NSWCC against the decision of Hulme J declining to make s31D orders for the examination of the first and second appellants.
- 30 21 August 2012 DPP concedes in the CCA proceedings that the dissemination to the DPP by the NSWCC of the transcripts of examination of the first and second appellants was unlawful, that there has been a miscarriage of justice in relation to trial of the drug offences and that a new trial should be ordered on these counts.
- 23 August 2012 Court of Criminal Appeal (Basten JA, Hall and Beech-Jones JJ) commences hearing the conviction appeals of the first and second appellants and questions the concession of the DPP.
- 40 6 September 2012 Court of Appeal delivers judgment, ordering: (1) that in addition to the orders made by Hulme J on 28 February 2011, the notice of motion filed by the NSWCC on 10 June 2010 be otherwise dismissed, such order to take effect from 28 February 2011; (2) and (3) granting leave to appeal and allowing the appeal and setting aside the order in (1); pursuant to

s31D(1)(a) ordering that the first and second appellants be examined on oath before a Registrar of the Supreme Court.

- 4 October 2012** Special leave application filed seeking special leave to appeal from the judgment and orders of the Court of Appeal.
- 29 October 2012 Second appellant's sentences for Counts 1-4 expired, having been served in full.
- 10 **1 November 2012** Summary of argument filed in High Court of Australia.
- DPP advises senior counsel for the appellants that the concession made in the appeal before the CCA is to be withdrawn or qualified.
- 2 November 2012 DPP maintains concession in the CCA proceedings that the dissemination of the transcripts to the DPP for use in the prosecution of the first and second appellants was unlawful, however withdraws concession as to there being a miscarriage of justice.
- 20 12-3 November 2012 Hearing of appeal before CCA resumes and is completed. Judgment reserved and remains reserved as at 21 March 2013.
- 15 February 2013** Special leave to appeal granted by the High Court of Australia (Heydon, Bell and Gageler JJ)
- 25 March 2013 Criminal assets recovery proceedings listed before the Supreme Court for further directions.
- 6 May 2013 The second money laundering charge listed for trial in the District Court.
- 30 17 June 2013 The first money laundering charges listed for trial in the District Court.
- 29 October 2015 Second appellant will be eligible for parole in relation to remaining sentence (Count 7).
- 13 June 2019 First appellant will be eligible for parole on remaining sentences (Counts 6 and 8).

Dated 22 March 2013

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