



HIGH COURT OF AUSTRALIA

Public Information Officer

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MICHAEL HERON v THE QUEEN

The High Court of Australia today dismissed an application for special leave to appeal by a man convicted of murder.

Michael Heron was found guilty of fatally stabbing Bill Jularic with a knife during a fight at the Beresford Hotel in Darlinghurst in Sydney in 1996. The principal issue at Heron's trial in the New South Wales Supreme Court was whether Jularic was stabbed or whether he accidentally impaled himself on a shard of broken glass. Heron was sentenced to 14 years' jail.

The Court of Criminal Appeal rejected his appeal. Heron then sought leave to appeal to the High Court on the ground that the trial judge misdirected the jury on provocation, despite Heron's defence counsel not raising the issue during the trial, not seeking any redirection and not raising this ground in the NSW Court of Criminal Appeal.

The High Court unanimously held that the trial judge had misdirected the jury on provocation by asking it to consider what an ordinary person *must* or *would* have done rather than what an ordinary person *could* have done. But the Court held that this did not result in any miscarriage of justice, given the manner in which the trial was fought and the weight of evidence against Heron.

The Court followed previous decisions that in exceptional circumstances it could hear criminal appeals on grounds neither raised at trial nor in the intermediate court of appeal but held that the circumstances of Heron's case did not warrant such a course.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*