IN THE HIGH COURT OF AUSTRALIA **No P46 of 2019**

PERTH REGISTRY

BETWEEN **STEFAN LAZBA MEAD**

Appellant

AND

THE STATE OF WESTERN AUSTRALIA

Respondent

RESPONDENT'S SUBMISSIONS

PART I – Publication

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

10

PART II – Concise statement of the issues

2. The issue raised by this appeal is whether, in order to prove a charge of murder in accordance with sections 7(b), 7(c) or 8 of the *Criminal Code* (WA), and in circumstances where an uncharged[1] juvenile[2] actor actually does the act of killing, the prosecution must prove that the uncharged juvenile actor had capacity to know that he ought not have done that act.

PART III – Notice under s 78B of the *Judiciary Act 1903* (Cth)

20

3. It is certified that this appeal does not involve a matter arising under the Constitution or involving its interpretation. Accordingly, notice under s 78B of the *Judiciary Act 1903* (Cth) is not required.

---

[1] 'Uncharged' in this case meaning not jointly charged with the person on trial.

[2] Being over 10 years and under 14 years of age.

Prepared by the Director of Public Prosecutions for Western Australia whose address for service is Level 1, 26 St Georges Terrace, Perth, WA 6000.
Reference No: 16/428 Telephone No: 9425 3999 Facsimile No: 9425 3608
Filed: 29 November 2019.

PART IV – Contested facts

4. The respondent accepts that the appellant's narrative of facts is accurate. No material fact in the appellant's chronology is contested.

PART V – Statement of Argument

The relevant provisions of the Criminal Code

10 5. Both sections 7 and 8 of the *Code* extend criminal responsibility beyond the person who actually does the act or makes the omission which constitutes the offence (the principal) to a secondary offender.[3] Certain persons (aiders, counsellors, procurers and parties to an unlawful common purpose) are deemed to have taken part in committing the offence and are deemed to be guilty of the offence.

6. Section 7 of the *Code* deems persons (including principal offenders under s 7(a)) who have done various things to be guilty of an offence *'when an offence is committed.'* The words *'when an offence is committed'* have no temporal connotation, in that there need not be a completed offence before section 7 comes into operation. Rather, section 7:

20

> *'...is brought into operation by the commission of the offence itself. In my opinion this is fortified by the consideration that it is not these introductory words which are speaking of the person who actually commits the offence; that is done by s. 7(a), which describes the person who at common law would have been called the principal in the first degree.'*[4]

---

[3] For the purpose of clarity, the phrase 'secondary offender' in these submissions means an offender whose liability is dependent upon s 7(b) and (c) or s 8 of the *Code*.

[4] ***R v Wyles, ex parte Attorney-General*** [1977] Qd.R. 169 at 176-177.

7. The text of section 7 does not distinguish between principal and derivative liability in the manner of the common law.[5] The opening words refer to '[w]hen an offence is committed.' Paragraph (a) deems the person who 'actually does' the act or makes the omission which constitutes the offence to have 'taken part' in its commission. Similarly, those who aid in the commission of the offence under paragraphs (b) and (c) are also deemed to have taken part in the commission of the offence. Liability flows directly from the act of aiding and is in no sense derivative.[6] The equivalent provision of the Criminal Code of Canada has been similarly construed.[7] The guilt of an aider under s 7(b) or (c) is not to be measured by the guilt of the actual perpetrator. Each is a party to an offence independently of the other.

10

8. Chapter V of the *Code* is entitled 'Criminal responsibility'. Sections 22 to 32 of that Chapter primarily define various principles of criminal responsibility in the negative, in that those sections provide that a person is 'not criminally responsible' for acts or omissions in the case of unwilled acts, accidents, mistakes of fact and so forth. The provisions of Chapter V find their origins in principles of common law which provided exculpation for wrongful but excusable acts.

9. These provisions (unless expressly or implicitly excluded) have universal application to the criminal law of Western Australia. Section 36 states that the sections of Chapter V apply to
20 'all persons charged with any offence against the statute law of Western Australia' (emphasis added). Relevant to the respondent's arguments below, section 36 does not apply these provisions concerning criminal responsibility to the elements of an offence. Rather

---

[5] As to the distinction between principal and derivative liability at common law see ***IL v The Queen*** [2017] HCA 27; (2017) 262 CLR 268.

[6] ***Warren and Ireland v The Queen*** [1987] WAR 314 at 320 (Burt CJ) and 324 (Kennedy J); ***R v Tiet*** [2002] WASC 17 [7]; cf ***Campbell v The Queen*** [2016] WASCA 156 [12] (McLure P), although the correctness of McLure P's observations concerning the relevance of the common law to criminal liability under the *Code* has been called into question (***Roberts v The State of Western Australia*** [2019] WASCA 83 [57]) and is inconsistent with the orthodox approach of interpreting the *Code* in accordance with its own terms rather than presuming that its provisions reflect the common law: ***R v Barlow*** (1997) 188 CLR 1 at 18.

[7] ***Remillard v The King*** (1921) 62 S.C.R 21 at 35.

they apply to all persons charged with an offence. In this sense, the criminal responsibility provisions in Chapter V are not a constituent element of any offence. They are defences upon which, generally,[8] the prosecution bears the legal burden once, and only once, an accused has discharged their relevant evidential burden.

The relationship between an 'offence' and provisions which relieve a person of criminal responsibility

10. That the provisions of Chapter V provide exculpation to a person who would otherwise be criminally responsible for an act or omission in the circumstances specified in those provisions[9] is significant in considering whether the secondary offender is deemed to have committed those acts or made those omissions. As the majority held in ***Barlow***:

> '*it must be borne in mind that to speak of an offence which the principal offender is found to have committed is not to refer to the jury's verdict against the principal offender; it is to refer to a finding by the jury in the case against the party who is said to be liable under s 8, the finding being made upon the evidence admitted for or against that party.*'[10]

11. Thus, a principal offender may, or may not, be acquitted of an offence upon reliance on a defence provided for by Chapter V which absolves them of criminal responsibility. This proposition is separate and discrete from their acts and omissions as they are attributable to secondary offenders who are deemed to have done them. This proposition is also separate from issues concerning what the elements of an offence are and whether those elements are established in any case against secondary offenders.

---

[8] Consistent with the common law at the time the *Code* was implemented, an accused bears the burden of proving insanity. As to section 29 capacity, the legal burden arises upon a simple comparison of the date of the offence and the accused's age on that date.

[9] See ***Pickering v The Queen*** [2017] HCA 17 [7].

[10] ***Barlow*** at 8-9.

12. An 'offence' is defined in s 2 of the *Code* as follows:

> 'An act or omission which renders the person doing the act or making the omission liable to punishment is called an offence.'

13. This definition is silent as to questions of criminal responsibility.

14. This definition, and the meaning of, the word 'offence' as it appears in sections 7 and 8 of the *Code* was discussed by the majority of the High Court in ***R v Barlow*** as follows:[11]

> *'Section 2 of the Code makes it clear that "offence" is used in the Code to denote the element of conduct (an act or omission) which, if accompanied by prescribed circumstances, or if causing a prescribed result or if engaged in with a prescribed state of mind, renders a person engaging in the conduct liable to punishment. Section 7(a) confirms that "offence" is used to denote the element of conduct in that sense. By the ordinary rules of interpretation, the term must bear the same meaning in pars (b), (c) and (d) of s 7 as it bears in par (a). Section 8, which complements s 7 and extends the net of criminal liability for an offence to the parties who have formed a common intention of the kind therein mentioned, reveals no ground for attributing a different meaning to "offence" in s 8.*
>
> *The structure of Ch V of the Code shows this to be the meaning of "offence" generally in the Code.'*

15. The term '*criminally responsible*', as defined in section 1 of the *Code*, '*means liable to punishment as for an offence*' (emphasis added). The words 'as for', within the phrase 'liable to punishment as for an offence' and the phrase 'liability to punishment as for an offence', connote 'with regard to' an offence.[12] The various provisions of Chapter V provide excuses from criminal responsibility for acts or omissions rather than offences.

---

[11] ***R v Barlow*** at 9 per Brennan CJ, Dawson and Toohey JJ.

[12] Reasons [149], JCAB 189.

16. The constituent elements of an offence under the Griffith Code are not determined by recourse to common law concepts of *actus reus* or *mens rea* but solely by reference to the provisions of the *Code* itself.[13] Section 2 refers only to acts or omissions. The result intended to be caused by an act or omission is immaterial unless 'expressly declared to be an element of the offence constituted.'[14] Many offences under the *Code* do not contain an expressly declared element of intention or any other element relevant to the actor's state of mind at the time the act or omission is made. Even if Glanville Williams' statement that there is no felony for collateral purposes where there is an *actus reus* without *mens rea* is correct,[15] that observation does not inform the proper construction of the *Code* which, at its very core, disavows the concept of *mens rea*. Regardless of whether excuses at common law resulted in a good defence to an offence otherwise established on the one hand, or resulted in a lack of proof of the *mens rea* element on the other hand, the position under the *Code* cannot be the latter. An unwilled act, accident or mistake of fact is capable of vitiating criminal responsibility with respect to offences for which there is no mental element. That an unwilled act, accident or mistake of fact may be inconsistent with the requisite intent of offences which contain an intention as an element is not to the point.

17. In ***R v KAR***, Philippides JA considered this passage of principle from ***Barlow*** and emphasised that:

> *'The plurality in Barlow thus made it clear that the term "offence", for the purpose of the Code, whether understood as denoting "what the law proscribes" or "the facts the existence of which render an actual offender liable to punishment" is not to be understood as the concatenation of "elements" which constitute a particular offence, nor as the concatenation of facts which render the actual offender liable to punishment. Instead, "offence" denotes the element of conduct (being an act or omission) which,*

---

[13] ***Widgee Shire Council v Bonney*** (1907) 4 CLR 977 at 981 (Griffith CJ); ***R v Hutchinson*** [2003] WASCA 323 [31].

[14] s 23 *Criminal Code*.

[15] Glanville Williams, "Secondary Parties to Non-Existent Crime", (1953) 16 *Modern Law Review* 384. The position at common law is not without controversy: see ***IL v The Queen*** [34]-[40], ***Croxford v The Queen*** [2011] VSCA 433 [81]; Reasons [480]-[488], JCAB 271-272.

combined with other factors such as a prescribed circumstance, state of mind, or result renders the offender liable to punishment.'[16]

18. The focus of any consideration of liability under s 7(b) and (c) and s 8 is the element of conduct, and not other elements or the absence of defences which render the principal 'liable to punishment.'[17] An aider, counsellor or procurer is deemed to have done the relevant acts and, in accordance with what was said in ***Barlow***, may or may not be liable to the same extent as the principal.[18] The same applies for section 8.[19]

10 19. As the majority below found, sections 7 and 8 are not concerned with the criminal responsibility of any person who is a party to an offence.[20] A person charged with an offence may or may not be criminally responsible for his actual or deemed acts or omissions. Whether a person has done all of the acts which constitute an offence (in this case, the act of stabbing of the deceased) in prescribed circumstances (where the stabbing caused the death of the deceased) and with the prescribed state of mind (murderous intent),[21] and how those acts come to be attributable to others who have aided, counselled or procured the actor or are who are parties to an unlawful common purpose, is not informed by any consideration of whether that person, in their own trial, may be able to establish an absence of criminal responsibility for those acts in those circumstances by reliance upon a matter of exculpation
20 provided for by Chapter V. Whether the principal, as a person, is not criminally responsible by way of section 29 as it applies to him personally by virtue of s 36 of the *Code* is not to the point.

---

[16] ***R v KAR*** [2018] QCA 211, [2019] 2 Qd R 370 [56]. See also ***R v Licciardello*** [2017] QCA 286, [2018] 3 Qd R 206 [16]-[19]. In the context of s 8 of the *Code* see ***R v Keenan*** [2009] HCA 1; (2009) 236 CLR 397 [132].

[17] Reasons [156] and [159], JCAB 191.

[18] Reasons [160], JCAB 192 citing ***Barlow*** at 10.

[19] Reasons [161]-[163], JCAB 192.

[20] Reasons [164]-[165], JCAB 192-193.

[21] A murderous intent being either an intent to kill in accordance with s 279(1)(a) or an intent to inflict a bodily injury of such a nature as to endanger, or be likely to endanger, the life of a person in accordance with s 279(1)(b).

The provisions of Chapter V of the Criminal Code in their historical context

20. The distinction drawn by the majority between the elements of an offence, on the one hand, and matters that give rise to an absence of criminal responsibility on the other hand finds support not just in the text of the *Code* itself but also in the historical context in which the *Code* was drafted and subsequently enacted.[22]

21. While it is now trite that an accused bears an evidential, but not a legal, burden with respect to defences which arise under Chapter V of the *Code*, that was not the state of the common law at the time of enactment of the Griffith Code in both Queensland and Western Australia. Prior to ***Woolmington v Director of Public Prosecutions***,[23] it was commonly understood that the legal burden rested on an accused to prove an exculpatory justification or excuse once the elements had otherwise been established. That 'all the circumstances of accident, necessity, or infirmity are to be satisfactorily proved by the prisoner, unless they arise out of the evidence produced against him' was a proposition which appeared 'in nearly every text-book or abridgment which [had been written since 1762].'[24] Although routinely cited for the 'golden thread' that it is for the prosecution to prove its case beyond reasonable doubt (subject to insanity or statutory exception), the core issue in ***Woolmington*** was whether it was the Crown or the accused who bore the burden of proving or disproving accident in circumstances where the accused had killed the deceased.[25]

22. In his letter to the Attorney-General of Queensland which accompanied his draft Criminal Code, Sir Samuel Griffith noted that he had attempted to 'state specifically all the conditions which can operate at Common Law as justification or excuse for acts *prima facie* criminal, but have not formally excluded other possible Common Law defences.'[26]

---

[22] Reasons [177], JCAB 195.

[23] ***Woolmington v Director of Public Prosecutions*** [1935] AC 462.

[24] ***Woolmington*** at 474.

[25] ***Woolmington*** at 473.

[26] Letter from Sir Samuel Griffith to the Attorney-General of Queensland, 29 October 1897.

23. ***Woolmington***, initially subject to different interpretations as to its scope, was ultimately held to apply to questions of burden and standard of proof in Griffith Code jurisdictions.[27] In ***R v Mullen*** Dixon J, observing that the pre-***Woolmington*** principle 'no longer exists', stated in the context of the Queensland Code (emphasis added):

> *'The Criminal Code of Queensland does not, in my opinion, contain any sufficient expression of intention to exclude the application of the rule thus established. It is true that in its text there may be traced a belief on the part of the framers that the rule was otherwise, a belief which was very generally held. But the Code does not appear to me either to formulate or necessarily to imply a principle that upon an indictment of murder the prisoner must satisfy the jury on the issue of accident or of provocation.* '[28]

24. The common law treated matters which appear in Chapter V of the Griffith Codes as 'general exceptions' to the definition of crimes.[29] The *mens rea* of murder which the prosecution was required to prove at common law in the 19th century was malice aforethought.[30] Justifications and excuses were not components required to be disproved once an evidentiary burden was discharged (as was the case in both common law and *Code* jurisdictions post-***Woolmington***).

25. The distinction between justifications and excuses, once relevant to whether an accused was acquitted or pardoned respectively, became largely philosophical following the abolition of forfeiture in 1828.[31] In ***R v Prow***, Thomas J observed that under the Griffith Code the phrase '*it is lawful*' may be taken to be pronouncing justifications, whereas provisions using the

---

[27] ***Packett v The King*** (1937) 58 CLR 190; ***R v Mullen*** (1938) 59 CLR 124.

[28] ***R v Mullen*** at 136.

[29] ***He Kaw Teh v The Queen*** (1985) 157 CLR 523 at 573; Sir James Fitzjames Stephen, *A Digest of the Criminal Law* (Macmillan and Co, 4th edition, 1887), p 20.

[30] Sir James Fitzjames Stephen, *A History of the Criminal Law of England* (MacMillan and Co, 1883), Vol 2 p 95.

[31] See generally Simon Bronitt and Bernadette McSherry, *Principles of Criminal Law* (Lawbook Co., 4th edition, 2017) [6.05].

formula '*not criminally responsible*' amounted to excuses.[32] The distinction continues to have consequences in *Code* jurisdictions for civil actions related to alleged criminal conduct[33] but otherwise has no practical implication.

Why the construction preferred by Beech JA should not be accepted

26. The construction preferred by Beech JA relies heavily on the fact that there is a connection between the definitions of 'offence' and 'criminal responsibility', in that both defined terms include the common phrase 'liable to punishment.'[34] With respect, there is an element of circularity to this construction which results in an unduly cumbersome and complex interaction between these two defined terms. Beech JA's construction detracts from the primacy of the 'acts or omissions' insofar as the definition of what is called an offence is concerned, effectively requiring the negativing of Chapter V exculpatory provisions (which are not elements) before it could properly be said that an offence has been committed.

27. Beech JA's construction compels an outcome inconsistent with the statutory text of s 7, in that it makes the liability of an aider dependent upon the criminal responsibility of the actual perpetrator. Upon Beech JA's construction, in a case where two offenders act in concert in accordance with s 7(a) of the *Code* one of those offenders would necessarily be acquitted if the other offender, who performed some of the necessary acts or omissions, could rely upon an exculpatory provision of Chapter V. If no offence is committed unless the actor is criminally responsible for their acts or omissions, then s 7(a) which deems the actor guilty would be rendered superfluous. Section 7 draws a distinction between 'when an offence is committed' and the person who performs the acts or omissions constituting that offence.

---

[32] ***R v Prow*** (1989) 42 A Crim R 343 at 347-348. As to a declaration of something being lawful as meaning a 'justification', see ss 44 and 45 of the *Code*, where s 44 provides that various things amount to a seditious intention unless 'justified by section 45' and where s 45 provides that 'it is lawful' to do various things.

[33] One may be civilly liable for an act or omission which is excused by the criminal law, but not for an act or omission which is declared by the *Code* to be lawful: section 5 of Appendix B to the *Criminal Code Act Compilation Act 1913*.

[34] Reasons [422]; JCAB 254-255.

The preferred construction of Beech JA does not account for the purpose to be achieved by the legislature making this distinction. The provisions of section 7, insofar as the person who does the acts are concerned, could have been expressed in far simpler language if this was the desired outcome to be achieved.

28. Beech JA considered it unnecessary to address arguments concerning the element of unlawfulness in a homicide charge, on the basis that his Honour's preferred construction did not require an analysis of the relationship, if any, between that element and an absence of criminal responsibility.[35] However, when that element is analysed in the context of Beech JA's construction, it is apparent that the definition of unlawfulness is rendered meaningless.

29. Homicide offences contain an element that the killing be 'unlawful.' Where that element is used in the context of a homicide offence it has a statutory definition; a killing is unlawful unless authorised, justified or excused by law. [36] Offences involving an assault share the same statutory definition.[37] Given both the historical[38] and statutory[39] contexts, an 'excuse' means an act or omission for which an actor is not criminally responsible. Upon Beech JA's preferred construction, no offence is committed for either primary or secondary purposes unless the actor is criminally responsible for the offence. Thus, before one even comes to consider the element of unlawfulness, the act of killing must necessarily have been committed in circumstances which exclude exculpatory provisions such as Chapter V and those of Chapter XXVI which assert that an actor is not criminally responsible in certain circumstances. If Beech JA's construction is correct, the word 'excuse' in the definition of the element of 'unlawfulness' would have no work to do as excuses must be overcome regardless of the existence of an element of unlawfulness. That Beech JA's construction

---

[35] Reasons [494], JCAB 274.

[36] s 268 *Code*.

[37] s 223 *Code*.

[38] ***R v Prow*** at 347-348.

[39] See the title to Chapter XXVI of the *Code*.

deprives a word in an element of an offence of meaning and effect counts against its correctness.[40]

30. That argument inevitably raises the question as to what is meant by the element of 'unlawfulness' as it appears in homicide offences. With two inconsequential exceptions,[41] the phrase 'not criminally responsible' only appears in Chapters V and Chapter XXVI. Chapter XXVI, by its title, is concerned with 'justifications, excuses and circumstances of aggravation' for violent offences.[42] Chapter XXVI is the first chapter of Part V of the *Code*, which itself is concerned with offences against the person. Most sections in Chapter XXVI are concerned with whether certain conduct is 'lawful' or renders the actor 'not criminally responsible.' All of those provisions concern the use of force by the actor. The balance of Part V contains chapters concerned with various offences committed against a person. While the various justifications and excuses contained in Chapter XXVI are not, by their text, expressed to be limited to offences against Part V, there is nonetheless a thematic and contextual connection in that conduct declared to be lawful, or for which an actor is 'not criminally responsible', involves the use of force which would otherwise be an offence under another section of that part.

31. Other than seditious intention, all of the exculpatory provisions of the Code which incorporate the phrase 'it is lawful' are to be found in Chapter XXVI. Unlike Chapter V, Chapter XXVI does not contain a provision equivalent to s 36 to the effect that they apply to all persons charged with any offence against any statute law of the State.

---

[40] ***Project Blue Sky Inc v Australian Broadcasting Authority*** [1998] HCA 28; (1998) 194 CLR 355 [71].

[41] s 305(5), which excuses a person from criminal responsibility if they set a dangerous thing to protect the occupants of a dwelling at night, and s 441 which excuses a person from an offence concerning property damage where the damage was incidental to an act done in self-defence.

[42] Unlike margin notes or headings of individual sections, the titles of parts, divisions and subdivisions of a written law form part of the written law: s 32 *Interpretation Act 1984*.

32. Given these textual and contextual considerations, the element of 'unlawfulness' with respect to homicide and assaults, where it refers to justifications and excuses, is a reference primarily to the exculpatory provisions of Chapter XXVI. However, that element need not pick up the exculpatory provisions of Chapter V as those provisions are of general application by virtue of s 36 of the *Code*.

33. The contention of Beech JA that the respondent's construction leaves the final paragraph of s 7 with no work to do[43] fails to account for the fact that an innocent agent may be 'innocent' because of the absence of an element (usually a mental element) rather than because of a matter of exculpation under Chapter V. An innocent agent cannot, at the behest of the procurer, utter a forged record as the act of uttering requires knowledge that the record is forged.[44] Similarly, the innocent agent may perform their acts or omissions without satisfying elements of intention or possession,[45] rendering them not guilty of the counselled or procured offence (or guilty of a lesser offence involving a different intention) without recourse to Chapter V.

34. As effectively accepted by Beech JA,[46] upon his Honour's own construction, one may aid an insane person to murder another with impunity. Such a scenario is far from hypothetical.[47] Similarly, one could aid a nine-year-old in killing an abusive parent by providing them with the weapon to do so (without in any way counselling or procuring them to do so).

35. The text of the statutory provision which deals with self-defence connotes a distinction between an unlawful act of violence committed against the defending party on the one hand, and a person not being criminally responsible for an attack committed against the defending

---

[43] Reasons [443], JCAB 260-261.

[44] s 473 *Code*, read with definition of 'utter' in s 1 *Code*

[45] Possession of a thing being an element which has, as a component, a degree of knowledge.

[46] Reasons [467]; JCAB 267.

[47] ***R v Matusevich*** [1976] VR 470 at 477-478, 480. The issue was briefly touched upon in the further appeal to the High Court, although it was not central to the ground of appeal in that court; see ***Matusevich v The Queen*** (1977) 137 CLR 633 at 637-638, 663.

party on the other hand. Section 248(6) of the *Code* expressly acknowledges that a wrongdoer may not be criminally responsible for their harmful act, and extends the operation of self-defence to a person in those circumstances.[48] That provision accepts, as a possibility, that an unlawful act which constitutes an element of a violent offence may be committed by a person in circumstances where that person is not criminally responsible for their act.

The respondent's construction

10 36. A construction which treats the provisions of Chapter V as matters of exculpation to a person for an offence which is otherwise made out[49] avoids the complexity which flows from Beech JA's preferred construction. Insofar as the introductory words of s 7 are concerned, an offence occurs when a person does the act or makes omission which, in prescribed circumstances, outcomes or states of mind, renders that person liable to punishment. A person who actually does the act or makes the omission is then deemed, pursuant to s 7(a), to have committed the offence.

37. The question then arises as to whether exculpatory provisions contained in Chapter V apply. Chapter V refers to things which render a person not criminally responsible; that is, 'not
20 liable as for an offence.' Chapter V thus provides exculpation to a person who falls within the scope of s 7(a)-(d) or a secondary party to s 8. This construction is not dependent upon the need for complex interaction – which is said to have meaning because a common phrase appears in their definitions – between the terms 'offence' and 'criminal responsibility.'

38. Once a construction of this type is accepted, no issue arises with the verdict of guilty. It was open to the jury, in the way they were directed, to accept that PM had killed the deceased with the requisite intent. That PM, in his capacity as a person, may or may not have been criminally responsible for the act of stabbing the deceased is not to the point insofar as the appellant is concerned.

30

---

[48] s 248(6) *Criminal Code.*

[49] See ***Pickering v The Queen*** [21].

PART VI – Argument on notice of contention or cross-appeal

39. Not applicable.

PART VII – Estimate of length of oral argument

40. The respondent estimates it will require 1.5 hours for the presentation of the respondent's oral argument.

Dated: 27 November 2019

A. L. Forrester SC
T: (08) 9425 3999
F: (08) 9425 3608
E: dpp@dpp.wa.gov.au

L. M. Fox
T: (08) 9425 3999
F: (08) 9425 3608
E: dpp@dpp.wa.gov.au

IN THE HIGH COURT OF AUSTRALIA **No P46 of 2019**
PERTH REGISTRY

BETWEEN **STEFAN LAZBA MEAD**
Appellant

AND

THE STATE OF WESTERN AUSTRALIA
Respondent

RESPONDENT'S LIST OF STATUTORY PROVISIONS

---

1. *Criminal Code Act Compilation Act* (WA) - consolidated version 17-l0-00
   Appendix B, section 5.

2. *The Criminal Code* (WA) - consolidated version 17-l0-00
   Sections 1, 2, 7, 8, Chapter V, 44, 45, Chapter XXVI, 268, 279, 305, 441, 473.

3. *Interpretation Act 1984* (WA) - consolidated version 07-c0-02
   Section 32.