

BETWEEN:

**CMB**  
Appellant

and

**Attorney General for New South Wales**  
Respondent



### RESPONDENT'S CHRONOLOGY

#### Part I:

This chronology is in a form suitable for publication on the internet.

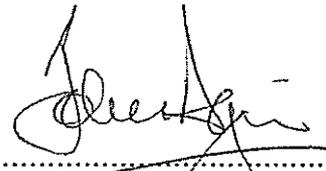
20 **Part II:**

Between 2004 and 2006 (inclusive)	The appellant sexually and indecently assaulted his daughter ("the victim") on a number of occasions, at a time when she was between ten and twelve years of age.	<b>AB260, 262</b>
24 May 2011	The victim reported the sexual and indecent assaults to police.	<b>AB260</b>
27 October 2011	The appellant was interviewed by police and charged with 22 sexual offences against the victim, which were later reduced to five counts of aggravated sexual assault in contravention of s. 61J of the <i>Crimes Act 1900</i> (NSW), two counts of attempted aggravated indecent assault in contravention of ss. 61J and 344 of the <i>Crimes Act</i> , and three counts of aggravated indecent assault contrary to s. 61M of the <i>Crimes Act</i> ("the first set of charges").	<b>AB260</b>
3 April 2012	The Director of Public Prosecutions ("the DPP") referred the appellant for assessment for participation in the Pre-Trial Diversion of Offenders Program ("the Program") established under the <i>Pre-Trial Diversion of Offenders Act 1985</i> (NSW) ("the Act"). There were no places available in the Program at that time. Pursuant to ss. 11 and 12 of the Act, the Act "ceased" to apply to him. The appellant was subsequently committed for sentence.	<b>AB261</b>
9 August 2012	A place in the Program became available, following which the matter was remitted from the District Court to the Local Court.	<b>AB10 – 11, 261</b>

17 August 2012	The Local Court “erroneously purported” to refer the appellant for assessment for participation in the Program.	<b>AB261</b>
23 August 2012	The DPP wrote to the Program Director indicating his view that the appellant was suitable for participation in the program.	<b>AB261</b>
24 August 2012	The DPP was advised by the Program Director that a place was available for the appellant in the Program. The appellant thereafter commenced an eight-week assessment process.	<b>AB77, 261</b>
1 September 2012	The <i>Pre-Trial Diversion of Offenders Regulation 2005</i> (NSW) was repealed.	<b>AB261</b>
5 October 2012	The appellant disclosed to Program staff that he had committed additional sexual offences against the victim.	<b>AB261</b>
2 November 2012	The appellant reported the previously unknown offences to police and participated, under caution, in an interview in relation to the offences. The appellant was charged with nine further sexual offences against the victim, which were later reduced to four counts of aggravated sexual assault in contravention of s. 61J of the <i>Crimes Act</i> and one count of aggravated indecent assault in contravention of s. 61M of the <i>Crimes Act</i> (“the second set of charges”). The offences involved, <i>inter alia</i> , the appellant removing the victim’s underpants, parting her legs, stroking and kissing her vagina and licking her clitoris.	<b>AB4 – 8, 261 – 262, 285 – 286</b>
7 November 2012	The Program Director assessed the appellant as suitable for participation in the Program.	<b>AB262</b>
23 November 2012	The appellant entered guilty pleas in relation to the first and second set of charges and was committed to the District Court for sentence.	<b>AB2, 262</b>
31 January 2013	In relation to the first set of charges, the appellant gave an undertaking to the District Court pursuant to s. 23 of the Act to participate in the Program for two years. The appellant was not convicted, although he “should then have been” pursuant to s. 24 of the Act. The second set of charges were adjourned to 4 April 2013 for sentence.	<b>AB42-44, 260 – 262</b>
4 April 2013	In relation to the second set of charges, the District Court imposed a good behaviour bond of two years in respect of the s. 61M aggravated indecent assault offence, and concurrent good behaviour bonds of three years in respect of the four s. 61J aggravated sexual assault offences, which were conditional on the appellant completing the Program.	<b>AB93 – 94, 264</b>

- 17 July 2013 The DPP advised that he would not appeal the sentence imposed on the appellant in relation to the second set of charges. **AB156**
- 18 July 2013 The respondent advised the appellant that he was considering lodging an appeal. **AB199**
- 26 July 2013 The respondent filed in the Court of Criminal Appeal a notice of intention to appeal and an application for an extension of time in which to appeal. **AB259**
- 6 August 2013 The respondent filed in the Court of Criminal Appeal a notice of appeal. **AB96, 259**
- 10 December 2013 The Court of Criminal Appeal heard the respondent's appeal and reserved its judgment. **AB256**
- 19 March 2014 The Court of Criminal Appeal delivered judgment in *R v CMB* [2014] NSWCCA 5, upholding three of the respondent's four grounds of appeal and setting aside the sentences imposed by the District Court, imposing in lieu thereof an aggregate term of imprisonment of five years and six months, with a non-parole period of three years. **AB256**
- 29 April 2014 The appellant filed in this Court an application for special leave to appeal.
- 12 September 2014 This Court, constituted by French CJ and Gageler J, granted special leave to appeal on two grounds. **AB301**

Dated 28 November 2014



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