



HIGH COURT OF AUSTRALIA

NOTICE OF FILING

This document was filed electronically in the High Court of Australia on 10 Apr 2026 and has been accepted for filing under the *High Court Rules 2004*. Details of filing and important additional information are provided below.

Details of Filing

File Number: B44/2025
File Title: The King v. HCZ
Registry: Brisbane
Document filed: Form 27F - Appellant's Outline of oral argument
Filing party: Appellant
Date filed: 10 Apr 2026

Important Information

This Notice has been inserted as the cover page of the document which has been accepted for filing electronically. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties and whenever the document is reproduced for use by the Court.

IN THE HIGH COURT OF AUSTRALIA
BRISBANE REGISTRY

BETWEEN:

THE KING

Appellant

and

HCZ

Respondent

APPELLANT'S OUTLINE OF ORAL SUBMISSIONS

Part I: Certification

1. These submissions are in a form suitable for publication on the internet.

Part II: Propositions to be advanced in oral argument

A The ‘correctness standard’ does not apply

2. The respondent concedes that the ‘correctness standard’ does not apply to the review of a state of mind formed by the sentencing judge as to the existence or non-existence of ‘special circumstances’ within the meaning of s 227(2) of the *Youth Justice Act* (Qld) [Vol 1, Tab 3, pp 74-75]: RS [7], AR [2].
3. That concession is correctly made. Section 227(2) provides that the court ‘may order’ that the child be released after serving 50% or more, but less than 70%, of the sentence ‘if it considers that there are special circumstances’. The statute requires the formation of an opinion based on undefined factual matters and value judgments, such that no particular opinion is uniquely right: AS [27]-[28].
 - *Coal & Allied Operations Pty Limited v Australian Industrial Relations Commission* (2000) 203 CLR 194, 204-5 [19]-[20] (Gleeson CJ, Gaudon and Hayne JJ) [Vol 3, Tab 7, pp 237-238];
 - *GLJ v The Trustees of the Roman Catholic Church for the Diocese of Lismore* (2023) 97 ALJR 857, 455-456 [16] (Kiefel CJ, Gageler and Jagot JJ) [Vol 3, Tab 8, pp 455-456].
4. That being the case, *House v The King* applies to an appeal that concerns a decision under s 227(2) of the *Youth Justice Act*.
 - *Steven Moore (a pseudonym) v The King* (2024) 98 ALJR 1119, [15] (the Court) [Vol 4, Tab 15, p 599].

B The majority of the Court of Appeal applied the correctness standard

5. The majority treated the sentencing judge’s finding that there were no ‘special circumstances’ as an error attracting the correctness standard on appellate review: AS [22]-[23].
6. The language employed by Boddice JA at paragraphs [61] and [62] of the judgment is redolent of the application of the correctness standard: *Warren v Coombs* (1979) 142 CLR 531, 551-552 [Vol 3, Tab 14, pp 577-578]: AS [32].

C Alternatively, the majority misapplied *House v The King*

7. Even if the majority did not apply the correctness standard, the intervention of the Court of Appeal was still a violation of the principles espoused in *House v The King* (1936) 55 CLR 499. That standard does not permit an appellate court to interfere with a sentence because it would prefer a different conclusion: **AS [34]**.
- *Steven Moore (a pseudonym) v The King* (2024) 98 ALJR 1119, 1124 [14] [**Vol 4, Tab 15, p 599**] (Gageler CJ, Edelman, Steward, Gleeson, Beech-Jones JJ).
8. *House* establishes that appealable error in the exercise of a discretionary judgment may be shown by demonstration of a specific error apparent from the primary judge's reasons, or because the result embodied in the primary judge's order is 'unreasonable or plainly unjust'.
- *Munda v Western Australia* (2013) 249 CLR 600, 613 [34] (French CJ, Hayne, Crennan, Kiefel, Gageler and Keane JJ) [**Vol 3, Tab 12, p 471**].
 - *Hili v The Queen* (2010) 242 CLR 520, 538-9 [59]-[60] (French CJ, Gummow, Hayne, Crennan, Kiefel and Bell JJ) [**Vol 3, Tab 9, pp 372-3**].
9. Here, the majority:
- (a) rejected a challenge to the sentencing judge's conclusion that the offence was 'particularly heinous' (**J [48]**);
 - (b) rejected a challenge made on the basis that the sentencing judge gave no weight to the early plea of guilty, noting that the 'weight to be given to factors is a matter for the sentencing judge' (**J [52]**);
 - (c) held that relevant sentencing principles 'amply' supported a conclusion that 'the sentence of 14 years' detention for murder fell within the sound exercise of the sentencing discretion' (**J [57]**);
 - (d) recognised that the sentencing judge had referred to the early plea of guilty, the respondent's deprived upbringing and the positive signs in respect of rehabilitation (**J [60]**).
- AS [18]-[19], [35]**.

10. In that context, it was an error for the majority to reason that the operation of the statutory default that the respondent serve 70% of the sentence rendered the sentence ‘manifestly excessive’ (J [58]). In circumstances where the head sentence was unimpeachable, the statutory default for the child’s release date could not *itself* make the sentence unreasonable or plainly unjust and, for that reason, produce a ‘special circumstance’ permitting departure from the statutory rule. To reason in that way—as the majority did—was to ignore, and hence to undermine, the statutory scheme: **AS [36]-[39]**.
11. Further, given the matters mentioned above at [9] and [10], the majority was wrong to conclude that the learned sentencing judge misapplied the sentencing principles (**J [60]**).
12. The respondent offers no explanation for how the majority’s approach may be reconciled with the statutory scheme, or why it was not open to the sentencing judge to find there were no special circumstances. It is no answer to claim that the Court of Appeal’s weighing of the factors was ‘consistent with the yardstick cases’ or represented an appropriate ‘synthesis of competing considerations’: cf **RS [9]-[10]**. The relevant issue is whether the Court of Appeal was justified in interfering with the sentence of the sentencing judge. The answer to that is ‘no’.

Dated: 10 April 2026



Gim del Villar KC SG

April Freeman KC

Felicity Nagorcka

Jade-Ann Reeves