HIGH COURT OF AUSTRALIA

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Details of Filing

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IN THE HIGH COURT OF AUSTRALIA
BRISBANE REGISTRY

BETWEEN: **THE KING**
Appellant

and

HCZ
Respondent

APPELLANT'S REPLY

PART I: CERTIFICATION

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

PART II: REPLY

2. The respondent concedes that the finding by the trial judge that there were no 'special circumstances' did not attract the correctness standard on appeal.[1] He resists the first ground of appeal only on the basis that the majority did not, in fact, apply the correctness standard: **RS [7]**. That submission should not be accepted. The majority erroneously applied the correctness standard in relation to s 227(1) of the *Youth Justice Act 1992* (Qld). Any other view is difficult to reconcile with the language in which Boddice JA expressed himself.

3. As to the second ground, the respondent does not explain why the majority was right to find that it was not open to the sentencing judge to impose the sentence he did. In that respect, it is beside the point that the head sentence imposed by the majority in the Court of Appeal was 'consistent with the yardstick cases': **RS [9]**. That is not the test. Further, the majority's interference with the sentence did not manifest an 'entirely orthodox approach' to the 'weighing of competing considerations': cf **RS [10]**. If (as the appellant contends) it was open to the sentencing judge to form the view that his Honour did about

[1] The respondent's concession is consistent with the Queensland Court of Appeal's recent decision in *R v SET* [2025] QCA 232. In that case, Mullins P agreed with Crowley J that s 227(2) attracted appellate review in accordance with *House v The King* (1936) 55 CLR 499; Bond JA took the other view.

special circumstances, the Court of Appeal had no basis for interfering with the sentence imposed at first instance. The respondent has failed to engage with the appellant's argument in relation to the second ground in any meaningful way.

4. The respondent also fails to grapple with the point made at **AS [37]-[38]**. In circumstances where the head sentence was unimpeachable, the operation of s 227(1) of the *Youth Justice Act 1992* (Qld) could not itself produce a 'special circumstance'[2] nor could the application of the default minimum contained within s 227(1) render the sentence manifestly excessive in the circumstances.

Dated: 25 March 2026.

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[2] Reasons, [58] (CAB 50).