HIGH COURT OF AUSTRALIA

11 March 2026

THE KING v McGREGOR
[2026] HCA 3

Today, the High Court by majority dismissed an appeal from a judgment of the Court of Criminal Appeal of the Supreme Court of New South Wales.

The respondent was re-sentenced by the Court of Criminal Appeal with respect to four offences against a law of the Commonwealth, one of which attracted a mandatory minimum sentence of imprisonment of seven years under s 16AAA of the *Crimes Act 1914* (Cth). On re-sentence, the Court of Criminal Appeal imposed an aggregate sentence pursuant to s 53A of the *Crimes (Sentencing Procedure) Act 1999* (NSW) ("Sentencing Procedure Act").

The appellant advanced two contentions concerning the ability of courts in New South Wales, in sentencing offenders for multiple offences against a law of the Commonwealth, to impose an aggregate sentence of imprisonment. The appellant's wider contention was that they cannot do so at all, because s 53A(2)(b) of the Sentencing Procedure Act directs the attention of a sentencing court to apply provisions in Part 3 of the Sentencing Procedure Act. The appellant contended that this direction is inconsistent with the application of Part IB of the *Crimes Act* and accordingly could not be 'picked up' and applied pursuant to s 68(1) of the *Judiciary Act 1903* (Cth), which enables courts in New South Wales to apply relevant State legislation that is not inconsistent with relevant Commonwealth legislation.

The appellant's narrower contention was that courts in New South Wales cannot impose an aggregate sentence of imprisonment where at least one of the offences attracts a mandatory minimum sentence of imprisonment under s 16AAA of the *Crimes Act*, because s 16AAA required the respondent to be sentenced to a term of imprisonment of at least the mandatory minimum term "for" the relevant offence, yet the effect of applying s 53A is that a sentence of imprisonment is not imposed "for" that offence but instead an aggregate sentence is imposed for all of the offences.

The Court unanimously rejected the wider argument, relevantly holding that s 53A(2)(b) of the Sentencing Procedure Act simply records that a court sentencing an offender for offences against a law of the Commonwealth should apply so much of the provisions of the Sentencing Procedure Act "as are relevant", in addition to Part IB of the *Crimes Act.*

By majority, the Court also rejected the narrower argument, holding that s 16AAA of the *Crimes Act* does not require that an offender be sentenced to a separate sentence of imprisonment solely for the Commonwealth offence that attracts a mandatory minimum term.

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.

Please direct enquiries to Richard Glenn, Chief Executive and Principal Registrar
Telephone: (02) 6270 6893 Fax: (02) 6270 6868
Email: enquiries@hcourt.gov.au Website: www.hcourt.gov.au