



HIGH COURT OF AUSTRALIA

9 September 2026

DALE HAINES BY HIS LITIGATION GUARDIAN BARBARA RAMJAN v
ATTORNEY-GENERAL OF NSW
[2026] HCA 34

On 27 August 2026, the High Court unanimously allowed an appeal from a judgment of the Court of Appeal of the Supreme Court of New South Wales, in circumstances where the respondent conceded that the appeal should be allowed. Today, the High Court published its reasons for allowing the appeal.

Since 2017, the appellant has been a forensic patient under the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* (NSW) ("the Act") and its predecessor legislation, following a finding that he was unfit to be tried for offences including armed robbery. On 26 September 2025, the primary judge refused to make an order extending the appellant's status as a forensic patient. Under s 122(1) of the Act, the Supreme Court of New South Wales can only make an order extending a forensic patient's status as a forensic patient if satisfied to the requisite standard of the matters in both para (a) ("limb (a)") and para (b) ("limb (b)") of that sub-section. The primary judge was not satisfied of either limb (a) or limb (b) and dismissed the respondent's summons seeking the extension order.

The Court of Appeal allowed an appeal from the orders made by the primary judge and substituted an order extending the appellant's status as a forensic patient. The Court of Appeal accepted the respondent's submissions that the primary judge erred in the manner in which he had approached the statutory test in limb (b). While this acceptance did not establish any error in relation to limb (a), the Court of Appeal nevertheless allowed the appeal because it considered that it was common ground that it would be satisfied of limb (a) to the requisite standard.

Before the High Court, the respondent accepted that the Court of Appeal was wrong to treat it as common ground that limb (a) was satisfied to the requisite standard. Accordingly, the respondent conceded that the appeal should succeed and that the Court should make orders which would have the consequence that the appellant would no longer be a forensic patient. The Court accepted that concession and made orders, consistently with consent orders proposed by the parties, to allow the appeal and set aside the orders of the Court of Appeal.

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.