

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE

No.

IN THE COURT OF APPEAL

BETWEEN:

DIRECTOR OF PUBLIC PROSECUTIONS
FOR THE COMMONWEALTH OF AUSTRALIA

Appellant

-v-

HASSAN EL SABSABI

Respondent

NOTICE OF APPEAL

Date of document:	23 December 2016
Filed on behalf of:	The Appellant
Prepared by:	Mathew Sinnett
for and on behalf of the Director of Public Prosecutions (Commonwealth) 16 th floor 460 Lonsdale Street MELBOURNE VIC 3000	Solicitor Code: 9570 DX: 446 Facsimile (03) 9670 4295 Telephone: (03) 9605 4333 Reference: MC14100577

TO: Hassan El Sabsabi

AND TO: Starry Norton Halphen
Ground Floor, 333 Queen Street
Melbourne VIC 3000

AND TO: Registrar
Court of Appeal
Supreme Court of Victoria
436 Lonsdale Street
MELBOURNE VIC 3000

WHEREAS:

1. On 9 September 2015 an Indictment was filed in the Supreme Court at Victoria charging the Respondent with:

Charge 1: Acts preparatory to the commission of a foreign incursions offence contrary to s 7(1)(e) *Crimes (Foreign Incursions) Act 1978* (Cth)

Charge 2: Acts preparatory to the commission of a foreign incursions offence contrary to s 7(1)(e) *Crimes (Foreign Incursions) Act 1978* (Cth)

2. On 9 September 2015 the Respondent entered a plea of guilty to each of the charges contained in the indictment.
3. On 7 December 2016 the Respondent was sentenced on Charge 1 to 44 days imprisonment (time served in custody before being granted bail).
4. On 7 December 2016 the Respondent was sentenced on Charge 2 to a 2 year Community Corrections Order.
5. I, Shane Patrick Kirne, Acting Director of Public Prosecutions for the Commonwealth of Australia consider that there are errors in the sentences imposed and that different sentences should be imposed and I am satisfied that an appeal should be brought in the public interest.

TAKE NOTICE that on behalf of Her Majesty I will appeal to the Supreme Court of Victoria, Court of Appeal, against the sentences on the grounds set out below at the next sittings of the Court of Appeal or as soon thereafter as I or Counsel on my behalf may be heard.

GROUNDS OF APPEAL

1. The learned sentencing judge failed to comply with section 16A(1) of the *Crimes Act 1914* (Cth) by not imposing a sentence for each offence which was of a severity appropriate in all the circumstances of the offence.
2. The learned sentencing judge erred in finding that the Respondent's rehabilitation was "*well advanced*".
3. The sentence imposed in respect to charge 1 is manifestly inadequate as:
 - a) the sentence does not adequately reflect the nature and circumstances of the offending;
 - b) the sentence does not adequately reflect the principles of general deterrence, specific deterrence, denunciation and protection of the community; and
 - c) the sentencing judge gave undue weight to delay and to the subjective matters of the Respondent including his rehabilitation and youth.
4. The sentence imposed in respect to charge 2 is manifestly inadequate as:
 - a) the sentence does not adequately reflect the nature and circumstances of the offending;
 - b) the sentence does not adequately reflect the principles of general deterrence, specific deterrence, denunciation and protection of the community; and
 - c) the sentencing judge gave undue weight to delay and to the subjective matters of the Respondent including his rehabilitation and youth.

Dated: 23 December 2016



Shane Patrick Kirne
Acting Director of Public Prosecutions
for the Commonwealth of Australia

PARTICULARS OF SENTENCE IMPOSED

Appellant's name: Director of Public Prosecutions for the Commonwealth of Australia

Respondent's name: Hassan El Sabsabi

Convicted at: Supreme Court of Victoria at Melbourne – His Honour Justice Lasry

Date of Conviction: 9 September 2015

Date of Sentence: 7 December 2016

Sentences: Charge 1 – 44 days imprisonment

Charge 2 – 2 year Community Corrections Order

Total effective sentence: 44 days imprisonment and 2 year CCO

A copy of the Indictment upon which the Respondent was tried is annexed hereto as Schedule A.

IMPORTANT NOTES

1. You may be present on the hearing of this appeal if you wish. If you wish to be present, you should notify the Registrar of the Court of Appeal in writing.
2. The Court of Appeal will, if you wish, consider your case and argument in writing, instead of oral presentation of your case and argument. If you wish to present your case and argument in writing, set out fully your case and argument(s) in support.