COURT OF APPEAL
CRIMINAL APPEALS - SEPTEMBER

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Papazoglou v the Queen [2014] VSCA 194	Convicted of gross indecency (three charges), sexual penetration of a child under 10 (one charge), sexual penetration of a child between 10 and 16 years (one charge) and indecent assault (five charges)	Nine years and six months' imprisonment, non-parole period of five years and six months	Appeal against conviction	Dismissed	N/A	N/A	2 September 2014	Maxwell P, Weinberg and Priest JJA

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Bernath v the Queen; Gauci v the Queen; Brown v the Queen [2014] VSCA 195	**Bernath** Pleaded guilty to cultivating cannabis (one charge)	18 months' imprisonment, non-parole period of nine months	Appeal against sentence	Allowed	Breach of the parity principle	14 months' imprisonment, non-parole period of eight months.	3 September 2014	Neave, Priest and Beach JJA
Bernath v the Queen; Gauci v the Queen; Brown v the Queen [2014] VSCA 195	**Gauci** Pleaded guilty to cultivating cannabis (one charge), possessing material relating to the cultivation of cannabis (one charge), theft (one charge) and a summary offence of failing to store ammunition properly	27 months' imprisonment, non-parole period 18 months	Appeal against sentence	Allowed	Breach of the parity principle	20 months' imprisonment, non-parole period of 14 months	3 September 2014	Neave, Priest and Beach JJA

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Bernath v the Queen; Gauci v the Queen; Brown v the Queen [2014] VSCA 195	**Brown** Pleaded guilty to cultivating cannabis (one charge)	33 months' imprisonment, non-parole period of 22 months	Appeal against sentence	Allowed	Breach of the parity principle	26 months' imprisonment, non-parole period of 18 months	3 September 2014	Neave, Priest and Beach JJA
Rana v the Queen [2014] VSCA 198	Convicted rape (three charges)	Six years' imprisonment, non-parole period of four years	Appeal against conviction	Dismissed	N/A	N/A	4 September 2014	Ashley and Beach JJA
Barbat v the Queen [2014] VSCA 202	Pleaded guilty to indecent assault (three charges) and a summary offence of dangerous driving	Three years and four months' imprisonment, non-parole period of two years	Appeal against sentence	Allowed	Manifest excess	Two years and seven months' imprisonment, non-parole period of one year and seven months	4 September 2014	Ashley and Beach JJA

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Kheir v the Queen [2014] VSCA 200	Convicted of aggravated burglary (one charge), armed robbery, (two charges), recklessly causing injury (one charge) and blackmail (one charge)	Nine years and six months' imprisonment, non-parole period of seven years	Appeal against conviction and sentence	Dismissed	N/A	N/A	5 September 2014	Maxwell P, Redlich and Beach JJA
Pham v the Queen [2014] VSCA 204	Pleaded guilty to importing a marketable quantity of a border-controlled drug (heroin, one charge)	Eight years and six months' imprisonment, non-parole period of six years	Appeal against sentence	Allowed	Manifest excess	Six years' imprisonment, non-parole period of four years	5 September 2014	Maxwell P, Osborn and Kyrou JJA
Keefe v the Queen; Simpson v the Queen [2014] VSCA 201	**Keefe** Convicted of conspiring dishonestly to cause a risk of loss to a Commonwealth entity (two charges)	Seven years and six months' imprisonment, non-parole period of five years	Appeal against conviction and sentence	Dismissed	N/A	N/A	8 September 2014	Redlich, Weinberg JJA and Sifris AJA

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Keefe v the Queen; Simpson v the Queen [2014] VSCA 201	**Simpson** Convicted of conspiring dishonestly to cause a risk of loss to a Commonwealth entity (two charges)	Seven years and six months' imprisonment, non-parole period of five years	Appeal against conviction and sentence	Dismissed	N/A	N/A	8 September 2014	Redlich, Weinberg and Sifris JJA
Duncan (a pseudonym) v the Queen [2014] VSCA 215	Pleaded guilty to indecent assault (five charges), attempted indecent assault (one charge), use of a carriage service for child pornography material (one charge) and possession of child pornography (one charge)	Eight years and three months' imprisonment, non-parole period of five years.	Appeal against sentence	Allowed	Crown conceded factual error in sentencing on one charge	Five years' imprisonment, non-parole period of three years	9 September 2014	Priest and Beach JJA

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Filiz v the Queen [2014] VSCA 212	Pleaded guilty to aggravated burglary with intention to assault (one charge), intentionally causing serious injury (two charges), theft (one charge) and a summary charge of contravening a Family Violence Intervention Order	Three years and six months' imprisonment, non-parole period of one year and 10 months	Appeal against sentence	Dismissed	N/A	N/A	11 September 2014	Maxwell P and Redlich JA
Rapson v the Queen [2014] VSCA 216	Convicted of rape (five charges) and indecent assault (eight charges)	13 years' imprisonment, non-parole period of 10 years	Appeal against conviction	Allowed	Crown conceded that evidence of twocomplainants was not cross-admissible as tendency evidence	Retrial ordered	11 September 2014	Maxwell P, Nettle and Beach JJA

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Cook v the Queen [2014] VSCA 220	Convicted of committing an indecent act with a child under 16 (one charge)	Convicted and fined $1,300	Appeal against conviction	Allowed	Conviction on one charge unsafe and unsatisfactory – conviction unreasonable in light of the acquittal of the other charges	Conviction quashed and judgment and verdict of acquittal entered	11 September 2014	Osborn, Priest and Beach JJA
York (a Pseudonym) v the Queen [2014] VSCA 224	Pleaded guilty to common assault (one charge)	Five months' imprisonment, wholly suspended for 12 months	Appeal against sentence	Allowed	The sentencing judge erred in placing reliance on inadmissible material in the Victim Impact Statement, in a manner that was unfairly prejudicial to the appellant; manifest excess	$1,000 fine, no conviction	12 September 2014	Priest and Kyrou JJA

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Ball v the Queen [2014] VSCA 226	Pleaded guilty to defensive homicide (two charges) and recklessly causing serious injury (one charge)	20 years' imprisonment, non-parole period of 17 years	Appeal against sentence	Allowed	Manifest excess	17 years and six months' imprisonment, non-parole period of 14 years	16 September 2014	Nettle AP, Priest and Kyrou JJA
DPP v Sullivan [2014] VSCA 222	Pleaded guilty to recklessly endangering a person (one charge), making a threat to cause serious injury (one charge), making a threat to kill (one charge) criminal damage (one charge), making a threat to damage property (one charge) and contravening a Family Violence Intervention Order (one charge)	Three months' imprisonment	Director's appeal against sentence	Allowed	Manifestly inadequate	12 months' imprisonment, non-parole period of six months	17 September 2014	Ashley, Weinberg and Hansen JJA

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Machour v the Queen [2014] VSCA 225	Convicted of arson (one charge)	Four years' imprisonment, non-parole period of three years	Appeal against conviction and sentence	Dismissed	N/A	N/A	17 September 2014	Weinberg and Hansen JJA
Coleman v the Queen [2014] VSCA 228	Pleaded guilty to theft (one charge), having a deficiency in a trust account (one charge) and obtaining a financial advantage by deception (12 charges)	Five years' imprisonment, non-parole period of three years	Appeal against sentence	Dismissed	N/A	N/A	17 September 2014	Neave, Priest and Beach JJA
Mogoai v the Queen; Alexander v the Queen [2014] VSCA 219	**Mogoai** Pleaded guilty to recklessly causing serious injury (one charge) and affray (one charge)	30 months' imprisonment, non-parole period of 12 months	Appeal against sentence	Dismissed	N/A	N/A	22 September 2014	Redlich and Priest JJA

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Mogoai v the Queen; Alexander v the Queen [2014] VSCA 219	**Alexander** Pleaded guilty to recklessly causing serious injury (one charge) and affray (one charge)	30 months' imprisonment, non-parole period of 12 months	Appeal against sentence	Dismissed	N/A	N/A	22 September 2014	Redlich and Priest JJA
Buddle v the Queen [2014] VSCA 232	Pleaded guilty to affray (one charge), common assault (two charges) and intentionally causing injury (one charge)	15 months' imprisonment, non-parole period of nine months	Appeal against sentence	Dismissed	N/A	N/A	26 September 2014	Neave and Priest JJA
Woods (a Pseudonym) v the Queen [2014] VSCA 233	Convicted of incest (four charges) and indecent acts with a child under the age of 16 (five charges)	Eight years' imprisonment, non-parole period of six years	Appeal against conviction	Dismissed	N/A	N/A	26 September 2014	Weinberg, Hansen and Priest JJA

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Roth (a pseudonym) v the Queen [2014] VSCA 242	Convicted of sexual penetration of a child under 16 (18 charges), attempted penetration of a child under 16 (one charge), indecent acts (four charges), causing a minor to be involved in making child pornography (two charges) and producing child pornography (one charge)	15 years and four months' imprisonment, non-parole period of12 years	Appeal against conviction	Dismissed	N/A	N/A	30 September 2014	Neave and Priest JJA

COURT OF APPEAL
CRIMINAL APPEALS - OCTOBER

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Smith v the Queen [2014] VSCA 241	Pleaded guilty to perjury (one charge) and attempting to pervert the course of justice (one charge)	15 months' imprisonment, non-parole period of nine months	Appeal against sentence	Allowed	Manifest excess	12 months' imprisonment, eight months suspended for a period of 12 months	1 October 2014	Priest and Beach JJA
Stevenson v the Queen [2014] VSCA 247	Convicted of dangerous driving causing death and dangerous driving causing serious injury	Two years and six months' imprisonment, non-parole period of 18 months	Appeal against conviction	Dismissed	N/A	N/A	3 October 2014	Neave and Beach JJA, Ginnane AJA

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Singh v the Queen [2014] VSCA 250	Convicted of rape (one charge)	Seven years' imprisonment, non-parole period of five years	Appeal against sentence	Allowed	Manifest excess	Five years and six months imprisonment, non-parole period of three years and three months	7 October 2014	Weinberg and Priest JJA
Spijodic v the Queen [2014] VSCA 251	Pleaded guilty to dangerous driving causing serious injury (two charges)	18 months' imprisonment, 12 months suspended for a period of 24 months	Appeal against sentence	Dismissed	N/A	N/A	8 October 2014	Maxwell P and Weinberg JA

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Pillay v the Queen; Toganivalu v the Queen; Dansey v the Queen [2014] VSCA 249	**Pillay** convicted of indecent assault (one charge)	15 months' imprisonment, 10 months suspended for a period of two years	Appeal against conviction and sentence	Allowed	The verdict with respect to the charge of indecent assault was inconsistent with the inability of the jury to arrive at a unanimous verdict with respect to two charges of rape of which Pillay was acquitted, rendering it unsafe for the conviction for indecent assault to stand	Verdict of acquittal entered	13 October 2014	Maxwell P, Weinberg and Santamaria JJA

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Pillay v the Queen; Toganivalu v the Queen; Dansey v the Queen [2014] VSCA 249	**Toganivalu** convicted of indecent assault (one charge	15 months' imprisonment, 10 months suspended for a period of two years	Appeal against conviction and sentence	Allowed	The verdict with respect to the charge of indecent assault was inconsistent with the inability of the jury to arrive at a unanimous verdict with respect to two charges of rape of which Toganivalu was acquitted, rendering it unsafe for the conviction for indecent assault to stand	Verdict of acquittal entered	13 October 2014	Maxwell P, Weinberg and Santamaria JJA

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Pillay v the Queen; Toganivalu v the Queen; Dansey v the Queen [2014] VSCA 249	**Dansey** convicted of indecent assault (one charge)	15 months' imprisonment, 10 months suspended for a period of two years	Appeal against conviction and sentence	Allowed	The verdict with respect to the charge of indecent assault was inconsistent with the inability of the jury to arrive at a unanimous verdict with respect to two charges of rape of which Dansey was acquitted, rendering it unsafe for the conviction for indecent assault to stand	Verdict of acquittal entered	13 October 2014	Maxwell P, Weinberg and Santamaria JJA

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Casey v the Queen [2014] VSCA 257	Convicted of common law assault (one charge), intentionally causing injury (six charges), rape (one charge) and stalking (one charge) Pleaded guilty to theft of electricity (one charge), cultivation of a narcotic plant (one charge), possession of a drug of dependence (one charge), criminal damage (one charge) and stalking (three charges)	Seven years' imprisonment, non-parole period of five years	Appeal against conviction and sentence	Dismissed	N/A	N/A	21 October 2014	Ashley and Neave JJA

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Anderson v the Queen [2014] VSCA 255	Pleaded guilty to aggravated burglary (one charge), recklessly causing injury (one charge), intentionally damage property (two charges), failing to store a firearm correctly (one summary charge) and failing to store ammunition correctly (one summary charge)	Three years and four months' imprisonment, non-parole period of 20 months	Appeal against sentence	Dismissed	N/A	N/A	23 October 2014	Weinberg and Santamaria JJA

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Abela v the Queen [2014] VSCA 266	Pleaded guilty to theft (22 charges), making counterfeit money (one charge), burglary (six charges), obtaining property by deception (one charge), handling stolen goods (two charges) and dealing with property suspected of being the proceeds of crime (one summary charge)	Six years' imprisonment, non-parole period of three years and six months	Appeal against conviction and sentence	Appeal against conviction allowed; appeal against sentence dismissed	Crown conceded that the indictment for the federal charge of making counterfeit money had been signed by a Victorian prosecutor who was not delegated the powers of the Commonwealth Director of Public Prosecutions	Conviction with respect to the making counterfeit money charge quashed	24 October 2014	Ashley and Redlich JJA
Smith v the Queen [2014] VSCA 268	Pleaded guilty to incitement to kidnap (one charge) and fail to answer bail (one summary charge)	Seven years and three months' imprisonment, non-parole period of five years	Appeal against sentence	Dismissed	N/A	N/A	27 October 2014	Neave and Whelan JJA

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Clay v the Queen [2014] VSCA 269	Convicted of indecent assault (two charges), sexual penetration of a child under ten (four charges), gross indecency against a person under 16 (three charges) and attempted penetration of a child under ten (one charge)	Four years' imprisonment, non-parole period of two years	Appeal against conviction	Allowed	Miscarriage of justice; improper admission of irrelevant and prejudicial evidence, improper admission of hearsay evidence where previous representation not 'fresh in the memory of the person' who made them, improper admission of so-called 'admissions'; failure to give sufficient direction to the jury; failure of trial counsel to call evidence of good character	Convictions quashed and new trial ordered	30 October 2014	Weinberg, Osborn and Priest JJA

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Moustafa v the Queen; Kassab v the Queen [2014] VSCA 270	**Moustafa** convicted of defensive homicide	Eight years and six months' imprisonment, non-parole period of five years and six months	Appeal against conviction	Allowed	Miscarriage of justice; it is not possible to aid and abet defensive homicide, or alternatively, there was insufficient evidence for such a conviction	Conviction quashed, verdict of acquittal entered	30 October 2014	Redlich, Weinberg and Priest JJA
Moustafa v the Queen; Kassab v the Queen [2014] VSCA 270	**Kassab** convicted of defensive homicide	Eight years and six months' imprisonment, non-parole period of five years and six months	Appeal against conviction	Dismissed	N/A	N/A	30 October 2014	Redlich, Weinberg and Priest JJA

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Fridey v the Queen [2014] VSCA 271	Pleaded guilty to indecent assault (two charges), sexual penetration of a child under ten (two charges) and sexual penetration of a child under 16 (two charges)	Ten years' imprisonment, non-parole period of six years and six months	Appeal against sentence	Allowed	Principle of totality	Five years' imprisonment, non-parole period of two years and six months	31 October 2014	Weinberg, Whelan and Beach JJA
Barnes v the Queen [2014] VSCA 275	Pleaded guilty to intentionally causing injury (one charge) and damaging property (one charge)	30 months' imprisonment, non-parole period of 15 months	Appeal against sentence	Dismissed	N/A	N/A	31 October 2014	Redlich and Beach JJA

COURT OF APPEAL
CRIMINAL APPEALS - NOVEMBER

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
Caldwell v the Queen [2014] VSCA 274	**Kelly Caldwell** convicted of criminal damage (three charges), theft (eight charges) obtaining property by deception (21 charges), arson (one charge), burglary (five charges) and attempted theft (one charge)	Eight years' imprisonment, non-parole period of six years	Appeal against sentence	Dismissed	N/A	N/A	6 November 2014	Redlich, Priest and Beach JJA

Caldwell v the Queen [2014] VSCA 274	**Jason Caldwell** convicted of criminal damage (two charges), theft (six charges), obtaining property by deception (21 charges), arson (one charge), burglary (five charges) and attempted theft (one charge)	Seven years and six months' imprisonment, non-parole period of five years and six months	Appeal against sentence	Dismissed	N/A	N/A	6 November 2014	Redlich, Priest and Beach JJA
Caldwell v the Queen [2014] VSCA 277	Convicted of obtaining property by deception (four charges), burglary (one charge), theft (one charge) and handling stolen goods (one charge)	Two years' imprisonment, non-parole period of one year	Appeal against conviction	Dismissed	N/A	N/A	6 November 2014	Redlich, Priest and Beach JJA
Sheehy v the Queen [2014] VSCA 281	Convicted of intentionally causing serious injury (one charge)	Four years and six months' imprisonment, non-parole period of three years	Appeal against conviction and sentence	Dismissed	N/A	N/A	10 November 2014	Weinberg, Whelan and Santamaria JJA

DPP v Chhatre [2014] VSCA 280	Pleaded guilty to failing to stop after an accident (one charge) and failing to render assistance after an accident (one charge)	Three months' imprisonment, wholly suspended for two years; two year Community Correction Order	Director's appeal	Allowed	Invalid sentence imposed; unable to impose a suspended sentence and Community Correction Order	Suspended sentence quashed and offender fined $5,000 in lieu thereof; Community Correction Order affirmed	11 November 2014	Weinberg, Whelan and Santamaria JJA
Le v the Queen [2014] VSCA 283	Convicted of attempting to possess a drug of dependence (pseudoephedrine, one charge) Pleaded guilty to possessing a drug of dependence (cocaine, one charge) and failing to appear whilst on bail (one summary charge)	Four years, six months and 14 days' imprisonment, non-parole period of three years	Appeal against sentence	Dismissed	N/A	N/A	11 November 2014	Weinberg and Whelan JJA

Davies v the Queen [2014] VSCA 284	Convicted of being armed with a controlled weapon with criminal intent (one charge), handling stolen goods (one charge) and possessing an unregistered firearm as a prohibited person (one charge)	Three years' imprisonment, non-parole period of 18 months	Appeal against conviction and sentence	Allowed	Verdict of guilty for handling stolen goods unsafe and unsatisfactory; jury impermissibly asked to draw an adverse inference from offender's failure to give evidence at trial	Two years and ten months' imprisonment, non-parole period of 18 months	14 November 2014	Redlich and Weinberg JJA and Sifris AJA
Tokay v the Queen [2014] VSCA 285	Pleaded guilty to driving in a manner that is dangerous causing serious injury (one charge) and failing to stop and render assistance (one charge)	Three years and two months' imprisonment, non-parole period of two years	Appeal against sentence	Dismissed	N/A	N/A	14 November 2014	Weinberg and Santamaria JJA

Johnson v the Queen [2014] VSCA 286	Pleaded guilty to false accounting (three charges), submitting a false document to the Australian Securities and Investments Commission (one charge), theft (two charges) and obtaining a financial advantage by deception (one charge)	Six years and six months' imprisonment, non-parole period of three years and six months	Appeal against sentence	Dismissed	N/A	N/A	18 November 2014	Weinberg and Santamaria JJA
DF v the Queen [2014] VSCA 288	Convicted of contempt of the Chief Examiner (one charge)	Five months' imprisonment	Appeal against conviction	Dismissed	N/A	N/A	19 November 2014	Santamaria, Beach and Kyrou JJA
Matthews v the Queen; Vu v the Queen; Hashmi v the Queen [2014] VSCA 291	**Matthews** pleaded guilty to importing a marketable quantity of a border controlled drug (one charge) and trafficking a border controlled drug (one charge)	Four years and three months' imprisonment, non-parole period of two years and six months	Appeal against sentence	Dismissed	N/A	N/A	19 November 2014	Warren CJ, Nettle, Redlich, Priest JJA and Lasry AJA

Matthews v the Queen; Vu v the Queen; Hashmi v the Queen [2014] VSCA 291	**Vu** pleaded guilty to importing a marketable quantity of a border controlled drug (one charge)	Five years and eight months' imprisonment, non-parole period of three years and eight months	Appeal against sentence	Dismissed	N/A	N/A	19 November 2014	Warren CJ, Nettle, Redlich, Priest JJA and Lasry AJA
Matthews v the Queen; Vu v the Queen; Hashmi v the Queen [2014] VSCA 291	**Hashmi** pleaded guilty to trafficking in a drug of dependence (methlyamphet-amine, one charge), possession of a drug of dependence (methorphan, anabolic and androgenic steroidal agents),two charges) and possession of a schedule 4 poison (somatropin, one charge)	Two years and six months' imprisonment, non-parole period of 18 months	Appeal against sentence	Allowed	Sentence breached the parity principle	Two years and six months' imprisonment, non-parole period of 12 months.	19 November 2014	Warren CJ, Nettle, Redlich, Priest JJA and Lasry AJA

Jamieson v the Queen [2014] VSCA 294	Pleaded guilty to attempted theft (four charges) and theft (four charges)	Two years and six months' imprisonment, non-parole period of 15 months	Appeal against sentence	Dismissed	N/A	N/A	19 November 2014	Redlich and Whelan JJA
Reid v the Queen [2014] VSCA 295	Convicted of armed robbery (one charge) and recklessly causing serious injury (one charge)	Three years and five months' imprisonment, non-parole period of 2 years and 2 months	Appeal against conviction	Dismissed	N/A	N/A	21 November 2014	Redlich, Weinberg and Whelan JJA
Nabole v the Queen [2014] VSCA 297	Convicted of importing a marketable quantity of a border controlled drug (cocaine, one charge)	10 years' imprisonment, non-parole period of seven years	Appeal against conviction	Dismissed	N/A	N/A	21 November 2014	Redlich, Weinberg and Priest JJA
Morgan v the Queen [2014] VSCA 303	Pleaded guilty to indecent assault on a male person (four charges) and indecent assault on a girl under 16 (one charge)	Two years and one months' imprisonment, non-parole period of 12 months	Appeal against sentence	Dismissed	N/A	N/A	21 November 2014	Neave, Priest and Kyrou JJA

Saxon v the Queen [2014] VSCA 296	Pleaded guilty to aggravated burglary (one charge), common assault (one charge) and contravention of a family violence intervention order (one charge)	20 months' imprisonment, non-parole period of 12 months	Appeal against sentence	Dismissed	N/A	N/A	25 November 2014	Weinberg and Santamaria JJA
Soo v the Queen [2014] VSCA 304	Convicted of an indecent act with a child under 16 (two charges), producing child pornography (two charges) and common assault (one charge)	Five years' imprisonment, non-parole period of three years	Appeal against sentence	Dismissed	N/A	N/A	25 November 2014	Weinberg, Whelan and Santamaria JJA
Chan v The Queen; Tan v The Queen [2014] VSCA 301	**Tan** pleaded guilty to attempting to possess a marketable quantity of a border-controlled drug (heroin)	Six years imprisonment, non-parole period of four years	Appeal against sentence	Allowed	Manifest excess	Five years' imprisonment, non-parole period of three years	27 November 2014	Redlich JA and Almond AJA

Chan v The Queen; Tan v The Queen [2014] VSCA 301	**Chan** pleaded guilty to attempting to possess a marketable quantity of a border controlled drug (two charges, heroin)	Eight years and six months' imprisonment, non-parole period of six years and three months	Appeal against sentence	Allowed	Manifest Excess	Eight years and six months' imprisonment, non-parole period of six years	27 November 2014	Redlich JA and Almond AJA

COURT OF APPEAL
CRIMINAL APPEALS - DECEMBER

Case	Primary charge(s)	Sentence	Nature of appeal	Outcome of appeal	Successful ground (if any)	New sentence (if any)	Date of judgment	Bench
DPP v Russell [2014] VSCA 308	Pleaded guilty to recklessly causing injury (one charge), recklessly causing serious injury (one charge) and affray (one charge)	15 months' imprisonment; non-parole period of eight months	Director's Appeal against sentence	Allowed	Manifest inadequacy	Three years' imprisonment; non-parole period of one year and nine months	2 December 2014	Maxwell P, Weinberg and Santamaria JJA

Hayes v the Queen [2014] VSCA 309	Pleaded guilty to dishonestly obtaining a financial advantage by deception from a Commonwealth entity (two charges) and attempting to dishonestly obtain a financial advantage by deception from a Commonwealth entity (one charge)	Two years and six months' imprisonment, to be released after serving 15 months upon the provision of $5,000 security by recognisance to be of good behaviour for a period of three years and to make reparation of $102,977.60 to Centrelink	Appeal against sentence	Allowed for the limited purpose of correcting the lower court order	Orders made below did not reflect the sentencing judge's intention	Two years and six months' imprisonment, to be released after serving 15 months upon the provision of $5,000 security by recognisance to be of good behaviour for a period of three years, separate reparation order of $102,977.60	2 December 2014	Weinberg and Beach JJA
Bussell (a Pseudonym) v the Queen [2014] VSCA 310	Pleaded guilty to persistent sexual abuse of a child under the age of 16 (one charge) and incest (one charge)	12 years' imprisonment, non-parole period of nine years	Appeal against sentence	Dismissed	N/A	N/A	2 December 2014	Weinberg and Beach JJA

DPP v Meyers [2014] VSCA 314	Pleaded guilty to damaging property (one charge), aggravated burglary (one charge), false imprisonment (one charge), intentionally causing injury (one charge) and possessing an unregistered firearm (one charge)	Three years and six months' imprisonment; non-parole period of 18 months	Director's appeal against sentence	Allowed	Manifest inadequacy; the sentence on the charge of aggravated burglary was manifestly inadequate	Five years and six months' imprisonment; non-parole period of three years	4 December 2014	Maxwell P, Redlich and Osborn JJA

Ayres v DPP [2014] VSCA 318	Pleaded guilty to being a prohibited person in possession of a firearm (one charge)	Seven days' imprisonment	Appeal against conviction	Allowed	The appellant was not a 'prohibited person' within the meaning of the *Firearms Act 1996* at the time the offence was committed despite his guilty plea and could not lawfully be convicted of the firearms charge	A judgment of acquittal entered; ancillary orders confirmed	5 December 2014	Bongiorno and Priest JJA
DPP (Cth) v E F [2014] VSCA 320	Pleaded guilty to conspiracy to import a marketable quantity of border controlled drug (cocaine) (one charge)		Director's appeal against sentence	Dismissed	N/A	N/A	5 December 2014	Maxwell P, Redlich and Priest JJA

Audsley v the Queen [2014] VSCA 321	Convicted of aggravated burglary (one charge), common assault (one charge), recklessly causing serious injury (one charge) and armed robbery (one charge)	Seven years and three months' imprisonment; non-parole period of five years	Appeal against conviction	Allowed	Crown conceded that evidence to be led from the defence's expert witness was wrongly excluded by the trial judge below	Convictions quashed and a retrial ordered	8 December 2014	Maxwell P, Weinberg and Priest JJA
DPP (Cth) v Walls [2014] VSCA 323	Pleaded guilty to using a carriage service to transmit indecent communication to a person under 16 years (two charges), using a carriage service to procure a person under 16 years for sexual activity (one charge) and soliciting child pornography material using a carriage service (one charge)	22 months' imprisonment to be released upon the provision of security by recognisance of $1,000 to comply with the condition that the respondent be of good behaviour for a period of 24 months;	Director's appeal against sentence	Dismissed	N/A	N/A	8 December 2014	Neave, Whelan and Beach JJA

Zotos v the Queen [2014] VSCA 324	Pleaded guilty to attempting to pervert the course of justice (one charge)	Four years and 10 months' imprisonment; non-parole period of three years and six months	Appeal against sentence	Allowed	Manifest excess	Three years and 10 months' imprisonment; non-parole period of three years	10 December 2014	Bongiorno and Priest JJA
Heath (a pseudonym) v the Queen [2014] VSCA 319	Pleaded guilty to breaching a supervision order (three charges)	12 months' imprisonment	Appeal against conviction and sentence	Allowed	Crown conceded that the appellant's conduct with respect to one charge did not constitute a breach of the supervision order	Conviction of one charge of breaching a supervision order set aside; the appellant was resentenced on the remaining two charges to an aggregate sentence of five months' imprisonment	11 December 2014	Redlich and Beach JJA

Kilnk v the Queen [2014] VSCA 325	Convicted of reckless conduct endangering life (two charges)	Three years' imprisonment; one year to be served immediately and two years suspended for a period of 12 months	Appeal against conviction	Dismissed	N/A	N/A	12 December 2014	Neave, Redlich and Whelan JJA
Scannell v the Queen [2014] VSCA 330	Convicted of buggery (one charge)	Two years' imprisonment; non-parole period of 12 months	Appeal against conviction and sentence	Appeal against conviction dismissed; appeal against sentence allowed	Manifest excess	15 months' imprisonment; 10 months suspended for a period of two years	16 December 2014	Weinberg and Priest JJA and Lasry AJA

Lancaster v the Queen [2014] VSCA 333	Convicted of indecent act with a child under 16 years (one charge), sexual penetration of a child under 16 years (two charges)	Seven years and four months' imprisonment; non-parole period of five years	Appeal against conviction	Allowed	The trial judge erred in; ruling that certain documents were not business records under the *Evidence Act 2008*, excluding the evidence of Dr Gibbs and refusing leave to cross-examine the complainant resulting in a substantial miscarriage of justice	Convictions quashed; retrial ordered	17 December 2014	Nettle and Redlich JJA and Almond AJA
Lancaster v the Queen [2014] VSCA 333	Convicted of an indecent act with a child under 16 years (one charge), sexual penetration of a child under 16 years, and making a threat to kill (one charge)	Seven years and four months' imprisonment; non-parole period of five years	Appeal against conviction	Allowed	The judge bellowed erred in ruling that certain documents were not business records under the *Evidence Act 2008*	Convictions quashed; retrial ordered	17 December 2014	Nettle and Redlich JJA and Almond AJA

Ha v the Queen [2014] VSCA 335	Convicted of indecent assault (eight charges)	Four years' imprisonment; non-parole period of two years	Appeal against conviction and sentence	Dismissed	N/A	N/A	18 December 2014	Maxwell P, Weinberg and Priest JJA
Quail v the Queen [2014] VSCA 336	Convicted of attempted murder (one charge)	12 years and 6 months' imprisonment; non-parole period of 10 years	Appeal against conviction	Dismissed	N/A	N/A	18 December 2014	Redlich, Tate and Priest JJA
Murrell v the Queen [2014] VSCA 334	Convicted of aggravated burglary (one charge) and armed robbery (four charges)	Six years and six months' imprisonment; non-parole period of four years and two months	Appeal against conviction	Dismissed	N/A	N/A	18 December 2014	Maxwell P, Redlich and Priest JJA

Murrell v the Queen [2014] VSCA 337	Pleaded guilty to conspiracy to commit an armed robbery (one charge), theft (six charges), aggravated burglary (one charge), burglary (three charges), possessing an unregistered firearm whilst prohibited (one charge), possessing a prohibited weapon (one summary charge), dealing in property suspected of being proceeds of crime (one charge),	16 years' imprisonment; non-parole period of 12 years	Appeal against sentence	Allowed	Element of double punishment in the sentences imposed for burglary and for being a prohibited person in possession of an unregistered firearm and other charges	17 years and six months' imprisonment; non-parole period 14 years (see below for explanation of increase)	18 December 2014	Maxwell P, Redlich and Priest JJA

DPP v Murrell [2014] VSCA 337	Pleaded guilty to armed robbery (one charge) and handling stolen goods (two charges)	16 years' imprisonment; non-parole period of 12 years	DPP appeal against sentence; Applicant's appeal against sentence	Director's appeal allowed; applicant's appeal refused	Manifest inadequacy; the sentence with respect to the armed robbery charge was manifestly inadequate and the culmination of sentences ordered was inadequate	17 years and six months' imprisonment; non-parole period 14 years	18 December 2014	Maxwell P, Redlich and Priest JJA
Xypolitos v the Queen [2014] VSCA 339	Convicted of murder (one charge)	27 years' imprisonment; non-parole period of 24 years	Appeal against conviction and sentence	Dismissed	N/A	N/A	18 December 2014	Redlich, Tate and Priest JJA

Joseph v the Queen [2014] VSCA 343	Convicted of aggravated burglary - firearm (one charge), armed robbery (two charges), recklessly causing injury (one charge), intentionally causing serious injury (one charge), blackmail (one charge) and kidnapping (one charge)	14 years and six months' imprisonment; non-parole period of 11 years	Appeal against conviction and sentence	Appeal against conviction dismissed; appeal against sentence allowed	Undue disparity with co-offender's non-parole period	14 years and six months' imprisonment; non-parole period of 9 years and six months	18 December 2014	Weinberg, Priest and Santamaria JJA

DPP (Cth) v Zarb [2014] VSCA 347	Pleaded guilty to using a carriage service to access child pornography (one charge) and using a carriage service to transmit child pornography (two charges)	Three years and three months' Community Correction Order	Director's appeal against sentence	Allowed	Manifest inadequacy	Three months' imprisonment on the charge of using a carriage service to access child pornography and community correction order of two years on the remaining charges to commence at the conclusion of the term of imprisonment	18 December 2014	Neave, Priest and Kyrou JJA

Moody v the Queen [2014] VSCA 349	Pleaded guilty to recklessly causing injury (one charge)	Three months' imprisonment; 12 month community corrections order with a condition to perform 200 hours of unpaid community work over the course of 12 months	Appeal against sentence	Dismissed	N/A	N/A	18 December 2014	Redlich and Beach JJA
Boulton v the Queen; Clements v the Queen; Fitzgerald v the Queen [2014] VSCA 342	**Boulton** pleaded guilty to armed robbery (one charge) and recklessly causing injury (one charge)	Three months' imprisonment and an eight year Community Correction Order	Appeal against sentence	Allowed	Manifest excess	Three months' imprisonment and three year Community Correction Order	22 December 2014	Maxwell P, Nettle, Neave, Redlich and Osborn JJA
Boulton v the Queen; Clements v the Queen; Fitzgerald v the Queen [2014] VSCA 342	**Clements** pleaded guilty to armed robbery (one charge) and attempted armed robbery (one charge)	10 year Community Correction Order and $4,000 fine imposed	Appeal against sentence	Allowed	Manifest excess	Six year Community Correction Order and $4,000 fine imposed	22 December 2014	Maxwell P, Nettle, Neave, Redlich and Osborn JJA

Boulton v the Queen; Clements v the Queen; Fitzgerald v the Queen [2014] VSCA 342	**Fitzgerald** pleaded guilty to common assault (two charges)	5 year Community Correction Order	Appeal against sentence	Allowed	Manifest excess	Sentenced to imprisonment for 18 months, that is the period of time equivalent to the time served in pre-sentence detention	22 December 2014	Maxwell P, Nettle, Neave, Redlich and Osborn JJA
Tukuafu v the Queen [2014] VSCA 345	Convicted of incest (four charges)	Eight years and four months' imprisonment; non-parole period of six years	Appeal against conviction	Dismissed	N/A	N/A	22 December 2014	Maxwell P, Redlich and Whelan JJA

Bass (a pseudonym) v the Queen [2014] VSCA 350	Convicted of trafficking in a commercial quantity of a drug of dependence (methylamphetamine) (one charge) and pleaded guilty to trafficking in a drug of dependence (three charges), conspiracy to counterfeit money (one charge), possession of a drug of dependence (two charges), being a prohibited person possessing an unregistered firearm (one charge) and breach of suspended sentence (one charge)	12 years and six months' imprisonment; non-parole period of seven years and ten months	Appeal against conviction and sentence	Appeal against conviction dismissed; appeal against sentence allowed	Crown conceded specific error in sentencing; the appellant had been sentenced on the basis that the quantity trafficked was a large commercial quantity rather than a commercial quantity	10 years and six months' imprisonment; non-parole period of six years and eight months	22 December 2014	Maxwell P Weinberg and Santamaria JJA

Franze v the Queen [2014] VSCA 352	Convicted of attempting to possess a commercial quantity of methylamphetamine (one charge) and attempting to possess a commercial quantity of cocaine (one charge)	17 years' imprisonment; non-parole period of 13 years	Appeal against conviction	Dismissed	N/A	N/A	22 December 2014	Maxwell P, Neave and Weinberg JJA
Prasoeur v the Queen [2014] VSCA	Convicted of murder (one charge)	20 years' imprisonment; non-parole period of 15 years	Appeal against conviction	Dismissed	N/A	N/A	22 December 2014	Maxwell P, Redlich and Weinberg JJA