

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE

No. S APCR

The Queen

v.

Allan Au

**NOTICE OF APPLICATION FOR LEAVE TO APPEAL AGAINST
SENTENCE**

To the Registrar of Criminal Appeals:

I, Allan Au, am convicted of the offences of manufacturing a marketable quantity of a controlled drug for a commercial purpose, pre-trafficking in a controlled precursor, possession of a firearm and possession of a silencer, and related summary offences of breaching a suspended sentence of imprisonment and possession of a controlled weapon. I am a prisoner at Marngoneet Correctional Centre.

I WISH TO APPEAL to the Court of Appeal under section 278 of the Criminal Procedure Act 2009 against my sentence (particulars of which are set out below).

TAKE NOTICE that I apply to the Court of Appeal for leave to appeal against my sentence on the grounds:

Ground 1: The sentences imposed on charges 3, 4, 5, 6, related summary offence 4, orders for cumulation and the non-parole are manifestly excessive. In particular, insufficient weight was given to the applicant's remorse, plea of guilty, relative youth, significant steps taken towards rehabilitation whilst in custody, the significant delay, the principle of totality, and the applicant's lesser role in the offending.

Ground 2: The learned sentencing judge erred in failing to properly apply the principle of delay.

Ground 3: The learned sentencing judge erred in failing to take into account a relevant consideration, namely the deleterious effects of imprisonment upon a relatively youthful offender.

Ground 4: The learned sentencing judge erred in failing to properly apply the principle of parity.

Date: 29 November 2016



[Signed by legal practitioner on behalf of appellant]

The name and address for service are as follows:

Mr Joshua Cunningham

Grigor Lawyers

Solicitors

Level 1, 271 William Street

MELBOURNE VIC 3000

Email: j.cunningham@grigorlawyers.com.au

PARTICULARS

1. Appellant's name: Allan Au.
2. Offence for which convicted and in relation to which it is sought to appeal: manufacturing a marketable quantity of a controlled drug for a commercial purpose, pre-trafficking in a controlled precursor, possession of a firearm and possession of a silencer, and related summary offences of breaching a suspended sentence of imprisonment and possession of a controlled weapon.
3. Convicted at: The County Court of Victoria at Melbourne.
4. Trial or sentencing Judge: The Honourable Judge Gucciardo.
5. Date of conviction: 5 November 2015.
6. Sentence: 9 years' imprisonment with a non-parole period of 6 years.
7. Date of sentence: 24 August 2016, amended on 8 November 2016.
8. Name and address of legal practitioner who represented appellant at trial:
Mr Jacob Slucki, Grigor Lawyers, Solicitors, Level 1, 271 William Street, Melbourne VIC, 3000.
9. Name of counsel (if any) who represented appellant at trial: Mr Michael Stanton.

WRITTEN CASE MUST BE ATTACHED

1. This application for leave to appeal must be accompanied by a written case in support of the application.
2. A written case must comply with the requirements of any applicable practice direction. Practice directions may be viewed at, and downloaded from, the website of the Supreme Court of Victoria at www.supremecourt.vic.gov.au.

ORAL HEARING OPTION

I wish to have an oral hearing of my application

*I will be represented at the oral hearing by: Counsel

Solicitor

Myself

Date: 29 November 2016



[Signed by legal practitioner on behalf of appellant]

NOTES TO APPELLANT—ORAL HEARING OPTION:

1. It is the aim of the Court of Appeal to deal with the majority of applications for leave to appeal by a single Judge of Appeal without an oral hearing. Consequently, unless you request an oral hearing a single Judge of Appeal may determine the application on the basis of your grounds of appeal and accompanying written case without an oral hearing.
2. You may, however, request an oral hearing of your application by completing this section of this Form. This request must be confirmed to the Registrar of Criminal Appeals in writing in accordance with any applicable Practice Direction.
3. You must attach your written case in support of your application whether or not you request an oral hearing.

IMPORTANT NOTE:

You should be aware that the Court of Appeal has the power under the **Criminal Procedure Act 2009** to impose a sentence which is more or less severe than the sentence which is appealed against.
