

Rule 2.05(1)

FORM 6-2A

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE

Paul Smith

v.

The Queen

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

To the Registrar of Criminal Appeals:

I, Paul Smith, am convicted of the offence of negligently cause serious injury, reckless conduct endangering serious injury and failure to render assistance.

I am a prisoner at Marngoneet Correctional Centre.

I WISH TO APPEAL to the Court of Appeal under section 274 of the Criminal Procedure Act 2009 against my conviction (particulars of which are set out below).

TAKE NOTICE that I apply to the Court of Appeal for leave to appeal against my conviction on the ground(s):

Ground 1: A substantial miscarriage of justice occurred in the instance of the Applicant by virtue of the prosecutor in closing address asserting matters that were not supported by evidence, were inaccurate or inflammatory.

Ground 2: A substantial miscarriage of justice occurred in the instance of the Applicant by virtue of the prosecutor in closing address making statements which invited the jury to invert the onus of proof and place it upon the Applicant.

- Ground 3: A substantial miscarriage of justice occurred in the instance of the Applicant by virtue of the conduct of the prosecution in changing its case and departing from the prosecution Opening and the Notice to Admit at the commencement of the trial.
- Ground 4: A substantial miscarriage of justice occurred in the instance of the Applicant by virtue of the conduct of the prosecution in relying upon the 'flight' of the Applicant as an implied admission of guilt in circumstances where he had just prior been involved in a major collision and was suffering concussion.
- Ground 5: A substantial miscarriage of justice occurred in the instance of the Applicant by virtue of the prosecutor discrediting an important crown witness, without laying the foundation for this during the trial.
- Ground 6: Aggregation of errors. A substantive miscarriage of justice has occurred in the instance of the Applicant by virtue of an aggregation of errors contained under Grounds 1 – 5.

Date: 26 July 2017



.....
Anh Nguyen
Giorgianni & Liang Lawyers
Suite 5, Level 6, 2 Queen Street
Melbourne VIC 3000
Tel: (03) 8592 8066
Fax: 8672 3188
Email: anh@gllawyers.com.au

PARTICULARS

1. Appellant's name: Paul Smith
2. Offence for which convicted and in relation to which it is sought to appeal:
Negligently cause serious injury, reckless conduct endangering serious injury and failure to render assistance.
3. Convicted at: The County Court at Ballarat
4. Trial Judge: His Honour Judge Punshon
5. Date of conviction: 10 November 2016
6. Sentence:

Charge	Offence	Maximum Penalty	Sentence	Cumulation
1	Negligently Cause Serious Injury	10 y	5y	Aggregate
2	Reckless Conduct Endangering Serious Injury	5 y	5y	Aggregate
3	Failure to render assistance	10 y	5y	Aggregate
Total Effective Sentence		5 years		
Non-parole period		3 years		
Pre-Sentence Detention		12 days imprisonment		

7. Date of sentence: 22 November 2016
8. Name and address of legal practitioner who represented appellant at trial:
Ressan Lawyers, 42 McCrae Street, Dandenong VIC 3175
9. Name of counsel (if any) who represented appellant at trial: Neil Howard

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 do not wish to have an oral hearing of my application.

Date: 26 July 2017



.....
Anh Nguyen
Giorgianni & Liang Lawyers
Suite 5, Level 6, 2 Queen Street
Melbourne VIC 3000
Tel: (03) 8592 8066
Fax: 8672 3188
Email: anh@gllawyers.com.au

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.

* Delete if not applicable