Individual Court Attendance & Written Court Report

Student’s Name

Institution

**Western Australian Court**

The Supreme Court is the state highest Court in Western Australia with the responsibilities to handle both civil and criminal matters (Supremecourt, 2019). It is the main court in the state and therefore, the decision of the Supreme Court is the final decision maker in matters of criminal and civil cases. The Supreme Court is divided into two parts or divisions, which are the court of appeal and the General Divisions. Parliament makes laws while the courts interpret the constitution or the law. The Supreme Court of WA is an open Court to the public and therefore, everyone can walk in and sit to observe the proceeding of cases being heard by the Supreme Court Judges. The public are required to sit at the back at the public gallery of the courtroom.

The Supreme Court hearings are presided over by the Judges of the Supreme Court. In the hearing of criminal cases, the Supreme Court is composed of associates, witness, Defense counsel and prosecutor (Mitchell, 2019). There are also solicitors, the accused person(s) and the jury. But when the hearing of Civil Cases is taking place at the Supreme Court, the composition of the court usually different from the criminal case. The court is compost of presided over by the judge and other people present are, the witness, defense counsel and plaintiff, defense solicitor and plaintiff solicitor.

The case hearing was about the appeal *“Nguyen -V- The State Of Western*

*Australia [2019] Wasca 149”* The case was listed for hearing on 3 September 2019, starting fro, 10.00 am and break at 1:00 pm to 2:15 PM for lunch break. The case before the judges of the Supreme Court started at 10:00 am where the case was heard for hours. The matter brought before the court was the appeal against the previous ruling concerning the cultivation of cannabis with the intent of supply for profit. The case was Nguyen V. the State of Western Australia. However, the parties to case were counsel Appellant Mr. SR MGrath and respondent Mr J A Scholz. The solicitors were Morris Law Pty Ltd for the appellant and the Director of Public Prosecutions (WA) for the respondent. The judge who heard was Judge Mazza JA Mitchell JA. The court case was a criminal case because it was the state of The State of Western Australia V. an individual (Mr. Nguyen). It means that the state was prosecuting Mr. Nguyen for cultivating Cannabis for profit which is against the Law and therefore, the case was a criminal case. The matter brought before the court was the leave for appeal to be granted to Mr. Nguyen and the leave was granted by the judge. This therefore, means that the one month sentence by the District Court Perth was set aside until the hearing and ruling by the judges.

The appellant was accused of providing assistant on fraudulent of power which was used for the production of cannabis. The state argued that the appellant knew he was committing a crime and therefore, he should be held accountable for participating in a fraudulent of power and participating in the production of cannabis for profit. However, the court was asked to consider reconsider the sentencing against the appellant. The appellant asked the court to consider the immediate sentencing issued to the appellant and the sentencing was very inappropriate. During the hearing of the case, the judge applied section 360 of criminal code act, the Misuse of Drugs Act 1981 (WA). The sentencing judge applied a discount of 10% which is available under 9AA of the sentencing Act 1995 (WA). This sentencing Act was used by the sentencing judge to reduce the imprisonment of period issued by the District Court. The precedence from the previous ruling was also applied by the judge to make a ruling. The judge the case of Kabambi v The State of Western Australia, do decide that Nguyen committed an offense by participating in the production of cannabis. The legal case applied under the case Nguyen V. the state of Western Australia are was summarized in Rillotta v the state of Western Australia and the case regarding the Lee v the state of Australia. The judge, prosecutor the defense of the appellant consistency used the cases to illustrate the point which provided direction of the ruling made by the judge.

 It is therefore, important to state that the law and precedence were applied by the judge to ensure that the decision made is satisfactory. The rule was applied to decide whether the action of the appellant was illegal. Therefore, the Judge made a ruling that the appellant committed an offense. The appellant was then sentences was two count of offenses which totaling to 16(sixteen) years imprisonment. The judges made a ruling that the appellant knowing committed an offense and therefore, the immediate imprisonment could be applied. The judge also applied See s 80(5) of the Sentencing Act to illustrate the sentence and ensure that the appellant obtain appropriate justice. However, during the entire hearing, nothing much interrupted the hearing proceeding. It went on smoothly with both parties arguing their case to ensure that they catch the attention of the judge. There is strict rules and regulation which guide the proceedings and therefore, it is difficult to use mobile phone or any electronics within the premise of the court. Through the four hours sessions the proceedings preceded without any problem until the judge mad the final ruling. After that we left the court premise for our homes.

During the case, it was disputed that before the court was the seriousness of the offending and whether the sentence of imprisonment of the appellant was warranted. The contentious issue was whether it was open for the sentencing judge to make a conclusion that it was very inappropriate to conditionally suspend the sentencing which was imposed. It maximum penalty for the crime was also in contentious. The argument was made that the sentencing for the misuse of drugs should have a sentencing of not less than 10 (ten) years and therefore, the sentencing issued was less based on the section 390 of the criminal Code. The section 390 of the criminal code is three (3) years imprisonment. The defense and the prosecutor disputed the sentencing as less and should be rechecked. The sentencing of the appellant was also disputed with the defense attorney arguing that the judge failed to consider appellant plea or individual consideration in judgment instead of being judged together with other offenders. It was there argued by the prosecutor that the immediate imprisonment is the best and most appropriate for the crime committed by the appellant. The persecutor argued for the immediate imprisonment of the appellant under section 360 of the criminal code rather than 16 (sixteen) months issued by the Justice Michelle.

**Outcome of the case**

The judge reviewed the early sentence issued to Mr. Nguyen and therefore, reducing the number of months he was supposed to spend in prison. The judge made a ruling that the appellant is remorseful and youthful. It was also observed that the appellant played a lesser role compared to other defenders. The therefore, made a ruling that the appropriate sentence should be six (6) months imprisonment for taking part in the fraudulent of power offense and sixteen (16) months imprisonment for the cannabis offense. It means that the appellant sentence was reduced. The sentencing judge also made a ruling that both offenses were committed were s part of one enterprise and part of the same conduct allowing the property to be used for the purpose of cultivating cannabis, which is prohibited by the law. At the end of the hearing the offender was convicted (found guilty) and sentence to sixteen (16) months imprisonment.

In conclusion, the case Nguyen V The state of Western Australia was a criminal case where the state prosecuted Nguyen for participating in the production of cannabis for commerce use and the fraudulent of power which was used for the production of cannabis. The judge decide that Nguyen participated in an illegal act and therefore, he was imprisonment for a period of 16 (sixteen) month. The sixteen month was obtained after appeal was table that at the time of crime, Nguyen as a youth and he was very remorse for the act he committed. Due to remorse and youthful, the judge deciding to give him 10% deduction on the sentencing and this made him to get less months in imprisonment than earlier decision made by the judge of the District court of the lower division. Throughout the case, the law, including the acts such as sentencing act of 1978 (WA) and misuse act was applied by the judge. These helped the judge and the prosecuting team to make a ruling based on the law to ensure that justice is served. In short, the plea for appeal was granted by the Supreme Court, which made other judgment to occur,

# References

Mitchell, J. (2019). JURISDICTION : SUPREME COURT OF WESTERN AUSTRALIA. *See S 80(5) Of The Sentencing Act.* , 2-15.

Supremecourt. (2019). Supreme Court Of Western Australia. *Https://Www.Supremecourt.Wa.Gov.Au/V/Visiting\_Court.Aspx* , 2-15.

https://ecourts.justice.wa.gov.au/eCourtsPortal/CourtListings/TodaysCourtListings?jurisdiction=MC