Individual Court Attendance & Written Court Report

Student’s Name

Institution

**Introduction**

I attended a court session at the Supreme Court of the Western Australia State. The Supreme Court is the highest court in Western Australia with the jurisdiction to handle both the criminal and civil matters. Mitchell (2019) pointed that the Supreme Court has two divisions, the criminal and civil division and therefore, the structure of the divisions is distinct. It has the court of appeal and the general divisions. The court of appeal handles issues of appeal from the district courts and tribunal related matters. The general divisions deals with serious criminal matters such as robberies, murder, serious breaches of Commonwealth drug enforcement laws and the civil matters where the amount involved is more than $750.000 (Magistrate Court proceedings, 2019). The Supreme Court of WA is an open court where anyone is allowed to walk in and hear cases going at the court. The Supreme Court consists of judges, solicitors, defense counsel and the prosecutor. There are also witness, respondents and the jury. The composition of the court session or proceedings is determined by the type of case whether it is criminal or civil the composition of the session would be different.

The court opens at 10:00 and therefore, the hearing of the case started at 10:45 am on the 3rd September 2019. The presiding judge was Justice Michelle. The case was between Hoang Diep Nguyen as the Appellant the State of Western Australia as the respondent. Hoang Diep Nguyen v. the State of Western Australia was a criminal law appeal against the sentence issued by the district court against Nguyen for participating in the cultivation of cannabis with intends to sell for profit and fraudulent appropriation of power. The case was a criminal case appeal and therefore, it was presided over by a single judge, Honourable Justice Mitchell. The Counsel involved in the matter was Mr. SR McGrath as the appellant, Mr. JA Scholz as the respondent and the solicitors were Morris Law Pty and the respondent was the Director of Public Prosecutor (WA). The appellant was Nguyen and the defendant was the State of Western Australia because Nguyen launched an appeal against the early ruling which imprisoned him.

The Appellant (Nguyen) was accused by the State of Western Australia for participating in cultivating and processing of cannabis for supply and sale and providing an assistant on power fraudulent used for the processing of cannabis. It was argued by the state that the appellant knew what he was involved into and therefore, he committed the act knowing. It was argued by the state that the appellant (Nguyen) should be held accountable and therefore, the earlier ruling should be held. The appellant (Nguyen) made a frantic appeal before the judge, arguing that he was sentence in a group without considering his plea of separate hearing because of being young and not knowing the act was involve into. However, during the hearings of the case, Honourable Justice Mitchell, the presiding judge, used the section of 360 of the criminal code act, the Misuse of Drug Act 1981 (WA) to issue verdict. The Judge also used the 9AA of the sentencing Act 1995 (WA), which provide 10% discount on sentencing. The presiding judge, Honourable Justice Mitchell applied the act to reduce the imprisonment terms issued by the district court. However, during the court session or hearing, the judge used the precedent from the case “of Kabambi v The State of Western Australia, and Rillotta v the state of Western Australia and the case regarding the Lee v the state of Australia,” to make decision whether the appeal made by the appellant should be considered. The judge, persecutor, defense and the solicitor used the cases consistent to provide detailed explanation on the route the case should take to lure the judge to make a sound decision.

The presiding judge made a ruling that the appellant (Nyuyen) knowing committed an offense and therefore, immediate sentence should be applied. It was also decided that the fact that the appellant (Nguyen) is young and apologetic it warrant reduced sentence. Further verdict issued by the judge are the appellant should be held liable against his actions and the damages caused. The judge therefore, agreed with the district court that the (appellant) Nguyen knowing committed a crime and therefore, deserve immediate imprisonment as early issued the district court.

However, the outcome of the hearing was consideration of the early request made by the appellant. The judge agreed with the district court that a crime was committed by the appellant and therefore, immediate imprisonment was warranted. The judge also considered the appeal made by the appellant that he played a minor role compared to the rest of the colleague sentenced together with. The judge also made an observation that the appellant was very remorseful and young and therefore, he deserve a lesser sentencing compared to the others and therefore, the judge reduced the sentence which was early issued to the accused. The judge therefore gave the appellant (Nguyen) a six (6) months imprisonment for involving in production of cannabis for supply and ten (10) months for fraudulent of power. In total the judge issued sentence of sixteen (16) months imprisonment for the appellant (Nguyen). The appeal helped the appellant to get a reduced sentence compared to what had been issued earlier.

The disputed issue during the hearing was whether the immediate imprisonment of the appellant was warrant. 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 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.

In summary, the Supreme Court hearing was a criminal case of “Nguyen V The state of Western Australia.” The appellant was accused of participating cultivating cannabis for supply which is illegal. The judge made a ruling 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 hearing of the case, the laws, including the acts such as sentencing act of 1978 (WA) and misuse act were used by the judge. It provided the direction which the case took and therefore, the judge could make a sounding decision regarding the case. These also provided help to 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 be made appropriately.

# Bibliography

Magistrate Court proceedings. (2019). Magistrates Court of Western Australia. *https://www.magistratescourt.wa.gov.au/G/going\_to\_court.aspx* , 2-15.

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://www.supremecourt.wa.gov.au/T/the_people_in_the_court.aspx?uid=2179-7969-9562-4687>

<https://www.supremecourt.wa.gov.au/default.aspx>