

SUPREME COURT OF QUEENSLAND

CITATION: *R v Maza* [2026] QCA 130

PARTIES: **R**
v
MAZA, Nakimie Lloyd
(applicant)

FILE NO/S: CA No 37 of 2026
DC No 464 of 2025
DC No 555 of 2025

DIVISION: Court of Appeal

PROCEEDING: Sentence Application

ORIGINATING COURT: District Court at Cairns – Date of Sentence: 19 February 2026 (Fantin DCJ)

DELIVERED ON: 17 July 2026

DELIVERED AT: Brisbane

HEARING DATE: 18 June 2026

JUDGES: Mullins P, Boddice JA, Johnstone J

ORDER: **Leave to appeal sentence be refused.**

CATCHWORDS: CRIMINAL LAW – APPEAL AND NEW TRIAL – APPEAL AGAINST SENTENCE – GROUNDS FOR INTERFERENCE – SENTENCE MANIFESTLY EXCESSIVE OR INADEQUATE – where the applicant pleaded guilty to one count of grievous bodily harm on the State indictment – where the applicant further pleaded guilty to one count of using a carriage service to access child abuse material and one count of possess or control child abuse material obtained or accessed using a carriage service on the Commonwealth indictment – where the applicant was sentenced to 5 years’ imprisonment for the State offence and 4 years and 6 months’ imprisonment for each of the Commonwealth offences – where the structure of those sentences imposed required the applicant to serve 4 years and 6 months in custody before being able to apply for release on parole – where the applicant contends that the primary judge failed to take into account the totality principle in structuring the sentences – whether the sentences imposed are manifestly excessive by virtue of the custodial component

Hili v The Queen (2010) 242 CLR 520; [2010] HCA 45, applied

COUNSEL: A R Dunkerton for the applicant
 K L McCann for the respondent (Commonwealth)
 C M Cook for the respondent (Queensland)

SOLICITORS: O'Reilly Stevens Lawyers for the applicant
 Director of Public Prosecutions (Commonwealth) for the respondent
 Director of Public Prosecutions (Queensland) for the respondent

- [1] **THE COURT:** On 19 February 2026, the applicant pleaded guilty to one count of grievous bodily harm (**the State offence**), one count of using a carriage service to access child abuse material and one count of possess or control child abuse material obtained or accessed using a carriage service (**the Commonwealth offences**).
- [2] The applicant was sentenced to imprisonment for 5 years for the State offence. It was stated that the applicant had been held in pre-sentence custody for a total of 561 days and all of that time was declared as imprisonment already served under that sentence of imprisonment. A parole eligibility date was fixed at 6 August 2026.
- [3] The applicant was sentenced to imprisonment for 4 years and 6 months for each of the Commonwealth offences. It was declared that no time of the 561 days in pre-sentence custody was taken to be imprisonment already served under the sentences for the Commonwealth offences. It was ordered that the sentences of imprisonment for the Commonwealth offences were to commence on 6 August 2026. A single non-parole period of 2 years and 6 months was fixed for the Commonwealth offences.
- [4] The effect of the sentences imposed is a head sentence of 6 years and 6 months' imprisonment, where the applicant is required to serve 4 years and 6 months in custody before being able to apply for release on parole.
- [5] The applicant seeks leave to appeal those sentences. Should leave be granted, the applicant relies on two grounds. First, that the sentence imposed was manifestly excessive. Second, that the sentencing judge failed to apply the totality principle in respect of the time to be served in actual custody.
- [6] The applicant contends that the actual custodial period of the sentences breached the totality principle and resulted in manifestly excessive sentences, by reason of the overlapping terms of imprisonment for the State offence and the Commonwealth offences, requiring the applicant to serve 69 per cent of the overall sentence in custody. The applicant takes no issue with the head sentences imposed for the State offence or the Commonwealth offences.

Offences

- [7] The State offence was committed on 10 November 2023, when the applicant was aged 43 years. The applicant approached the complainant, a 52 year old male stranger who was seated in a public area, and asked for cigarettes and money. The complainant declined and the applicant became agitated, striking a female in the complainant's group when she attempted to calm him down. When the complainant stood up and told the applicant to "piss off", the applicant punched the complainant once in the head. He then repeatedly punched the complainant, knocking him to the ground three times. The applicant then walked away but returned after about five minutes and struck the complainant four times to the head with an empty plastic water bottle.

- [8] The applicant's actions resulted in bruising and bleeding to the complainant's brain and a broken skull. The complainant was left with a mild cognitive impairment, hearing loss and damage to his eyesight.
- [9] Although the applicant was arrested by police and charged with public nuisance, he was not charged with the offence of grievous bodily harm until 7 August 2024.
- [10] The Commonwealth offences were committed between 17 January 2024 and 11 April 2024 (first Commonwealth offence) and between 19 February 2024 and 12 April 2024 (second Commonwealth offence), when the applicant was aged 44 years. An examination of electronic devices revealed that the applicant had performed 95 Google searches of child abuse material, accessing 91 child abuse material files (comprising of 58 images and 33 videos) which were the subject of the first Commonwealth offence on 128 different websites, over a period of almost three months. The applicant was also found to possess 145 child abuse material files on his phone (which included the 91 files the subject of the first Commonwealth offence).
- [11] Police executed a search warrant as a result of intelligence linking the applicant to the uploading of child abuse material. Forensic examination of one of two mobile phones seized by police revealed the applicant had used search terms explicitly relating to child abuse material and had accessed such websites accordingly. The 91 child abuse material files accessed comprised images and videos in the worst category, depicting real prepubescent children involved in a sexual act, witnessing a sexual act, or containing material which focussed or concentrated on the child's genitalia.
- [12] An examination of 145 child abuse material files possessed by the applicant revealed that 112 of those files contained category one child abuse images and 33 contained category one child abuse videos. A total of 17 child abuse files had been deleted before the device was seized. The images depicted prepubescent girls in states of undress with exposed genitalia, as well as, in the case of some images, penetration of the genitalia by a male penis, or other objects.

Antecedents

- [13] The applicant has a lengthy criminal history. It included multiple previous convictions for contraventions of a domestic violence order. At least one such occasion involved actual violence. Relevantly to the Commonwealth offences, the criminal history included having been sentenced, on 28 March 2011, to 12 months imprisonment, wholly suspended for an operational period of 2 and a half years, for possessing child exploitation material, being some 119 images and on 16 May 2012, to 3 months imprisonment and 18 months' probation for possessing 22 images during the operational period of the suspended sentence.
- [14] The applicant had also been convicted on 19 June 2012, of four charges of failing to comply with his reporting obligations; on 14 February 2017, of four charges of failing to comply with his reporting obligations; on 25 July 2017, of one charge of failing to comply with his reporting obligations; and on 6 January 2020, of one charge of failing to comply with his reporting obligations, as well as other offences.
- [15] Prior to the applicant being remanded in custody, he had a history of working in the seafood industry. He also had responsibility for three children. Whilst on remand, the applicant worked as a prison cook.

Sentence hearing

- [16] The prosecution submitted that a notional starting point of between 5 and 6 years was appropriate for the State offence, but that taking into account totality considerations, a sentence of 5 years' imprisonment was appropriate. The prosecution also submitted that having regard to the differences in the offending and the applicant's prior criminal history, it was appropriate for cumulative sentences of imprisonment to be imposed for the Commonwealth offences. It was accepted that a partially accumulated sentence was open, having regard to totality considerations. It was also accepted that totality considerations could be met by delaying the State parole eligibility date beyond one-third, whilst fixing an earlier non-parole period for the Commonwealth offences.
- [17] Defence counsel submitted that a sentence of 4 years' imprisonment for the State offence and a sentence of 3 and a half to 4 years' imprisonment for the Commonwealth offences was appropriate to reflect totality considerations. It was submitted that parole eligibility ought to be set at one-third for the State offence and that the non-parole period be fixed at one-third for the Commonwealth offences.

Sentencing remarks

- [18] The sentencing judge recorded that the applicant's early pleas of guilty had saved the cost of a trial, as well as spared the complainant the trauma of having to give evidence. Whilst those pleas of guilty were in the face of a very strong Crown case, particularly in respect of the Commonwealth offending, the applicant was entitled to some discount on sentence for the pleas of guilty.
- [19] In respect of the State offence, the sentencing judge recorded that the applicant had inflicted gratuitous and unprovoked violence to a complete stranger in a public place, had persisted despite the intervention of others, and had returned to inflict further violence, only stopping when grabbed by a bystander. As a consequence, the complainant suffered a broken skull and resulting traumatic brain injury, with cognitive decline, as well as moderate to profound hearing loss to one ear and the loss of vision to one eye. His ability to perform daily tasks had been significantly impaired and his participation in society was limited. The sentencing judge accepted that due to the inability of the prosecution to locate the complainant, there was no current information as to whether his condition had improved or deteriorated over time and found the applicant was to be sentenced on the basis that he had caused very significant injuries, with some permanent impairment.
- [20] In respect of the Commonwealth offences, the sentencing judge recorded that the two charges spanned a period of almost three months, with an overlap in the respective periods. The sentencing judge also recorded that the applicant had not been honest when interviewed by police. He downplayed his conduct and claimed that he was searching for adult pornography. He also denied having any sexual fantasies about children or that he was sexually aroused by child abuse material. Despite that minimisation of the conduct, the sentencing judge noted that the applicant had also referred to some childhood experiences that may have driven him to look for child sexual abuse, had said that he had never sought help in relation to those matters and had said that he knew it was not right.
- [21] The sentencing judge found that as the child abuse offences were committed on a completely separate date and were offences of an entirely different character, it was

appropriate for the sentences to be imposed cumulatively, but that by reason of totality they would be partially cumulative on the sentence for the State offence.

Consideration

- [22] For the reasons set out below, there is no substance in either a contention that the sentencing judge erred in failing to apply the totality principle in respect of the actual custodial component of the sentence, or a contention that the overall sentence was manifestly excessive by virtue of the actual custodial component.
- [23] First, the sentencing judge expressly had regard to the totality principle in both the fixing of the periods of imprisonment for the State offence and the Commonwealth offences and in determining the structure of those sentences.
- [24] In imposing the sentence of 5 years' imprisonment for the State offence, the sentencing judge recorded that this sentence was reduced from what would have been a 5 and a half to 6 year sentence, if the matter was dealt with alone, to allow for totality, having regard to the fact that the sentencing judge proposed to impose cumulative sentences for the Commonwealth offences.
- [25] In imposing the sentences for the Commonwealth offences, the sentencing judge said the sentence imposed ought not, due to totality considerations, be crushing and found that the notional starting point of 6 years' imprisonment should be discounted not only for the pleas of guilty and cooperation, but further ameliorated by imposing sentences only on a partially cumulative basis.
- [26] Second, a requirement that the applicant serve 4 years and 6 months in actual custody before eligibility for release into the community, did not render the sentences manifestly excessive. To succeed in such a contention, the applicant must establish that the sentence imposed warrants a conclusion that there was a misapplication of principle or that the sentence was unreasonable or plainly unjust.¹ Neither is established in the present case. To the contrary, the sentences fell within a sound exercise of the sentencing discretion.
- [27] The State offence involved gratuitous, unprovoked violence, at night, in a public place, to the head of a complete stranger. The applicant had persisted despite others trying to assist the complainant and despite the applicant leaving when the complainant was on the ground. When the applicant returned and struck the complainant a further four times with an empty water bottle, he only stopped when he was grabbed by another person. The complainant suffered catastrophic injuries, including a broken skull and a resulting traumatic brain injury.
- [28] General and personal deterrence, as well as denunciation and protection of the community are significant sentencing considerations for such an offence of gratuitous, alcohol and drug-fuelled violence at night, in a public place, on an innocent member of the public.
- [29] Whilst there was no evidence that the material the subject of the Commonwealth offences was for the purpose of sale or further distribution, and there was no suggestion that the material was disseminated or transmitted, or that the applicant was acting in a network of like-minded persons, the sentence to be imposed had to give

¹ *Hili v The Queen* (2010) 242 CLR 520.

primary consideration to general and specific deterrence. As the sentencing judge observed, in the applicant's case there was a higher than usual need for specific deterrence, by reason of two separate previous convictions for possessing child exploitation material and multiple breaches of his reporting obligations.

- [30] The separate State and Commonwealth offending, both in nature and time, also warranted the imposition of cumulative sentences. Against that background, to impose sentences of imprisonment for the Commonwealth offences, which were only partially cumulative on the sentence of imprisonment for the State offences, was not plainly unreasonable.

Conclusion

- [31] The sentences imposed by the sentencing judge plainly reflected totality considerations. Those sentences allowed for the differing sentencing regimes for State and Commonwealth offences, whilst recognising that the sentences imposed must not constitute a crushing sentence overall.
- [32] Further, the fact that the applicant is required to serve a little over two-thirds of the overall sentences of imprisonment, prior to being able to apply for release on parole, was not manifestly excessive.

Orders

- [33] The Court orders:
1. Leave to appeal sentence be refused.