

Appeals from the Local Court

s11(1) Crimes (Appeal and Review) Act 2001

Any person who has been sentenced by the Local Court may appeal to the District Court against the sentence.¹ Throughout my career, many clients have come to me after getting smashed in the Local Court. This is usually because they received substandard legal representation or chose to represent themselves. This paper explains the procedure in New South Wales.

Hearing De Novo

Appeals to the District Court are a rehearing (hearing de novo) of the evidence given in the original Local Court proceedings. Most importantly, there is no need to demonstrate an error of law in the court below. The judge will simply consider the evidence anew and then either affirm the original decision or quash it and substitute his or her own finding for that of the magistrate.

Fresh Evidence

Fresh Evidence, in relation to appeal proceedings, means evidence in addition to or in substitution for the evidence given in the proceedings from which the appeal proceedings have arisen.² Fresh evidence may be given as of right in sentence appeals.³ Leave of the court is required to give fresh evidence in All Grounds Appeals.⁴

Parker Directions

Many clients are concerned that they might get a harsher sentence on appeal. While this is theoretically possible, it never happens. This is because, where the judge is contemplating an increased sentence, they are required to give a warning known as a Parker Direction.⁵ The appellant can then seek leave to withdraw the appeal and the original sentence will stand.

It has been my experience that, when they have competent representation, people almost always receive a better result on appeal to the District Court. For this reason, prosecutors refer to it as the Discount Court because everyone gets a discount on their sentence.

I am available every day should you require further assistance.

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¹ s11(1) Crimes (Appeal and Review) Act 2001

² s3 Crimes (Appeal and Review) Act 2001

³ s17 Crimes (Appeal and Review) Act 2001

⁴ s18 Crimes (Appeal and Review) Act 2001

⁵ Parker v DPP (1992) 28 NSWLR 282