

Parker Warnings

Parker v DPP (1992) 28 NSWLR 282 at 295

Many clients have come to me after getting smashed on sentence in the Local Court. This is usually because they received substandard legal representation or chose to represent themselves. Any person who has been sentenced by the Local Court may appeal to the District Court against the sentence.¹ This is known as a severity appeal.

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. The main reason for this is the Parker Direction or Warning.

Sentencing Powers

Many people are afraid to appeal as they believe the District Court handles more serious crimes and passes harsher sentences. However, when acting as an appeal court, it is limited to the sentencing powers of the Local Court. It cannot pass a new sentence that could not have been imposed by the Local Court.²

The Parker Direction

Even so, 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 in a severity appeal, he or she must indicate this fact so that the appellant can consider whether or not to apply for leave to withdraw the appeal.³ Of course, they always do, and the original sentence stands.

So, the upshot is that all District Court appeals end with either a lesser sentence or the original 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 s71 Crimes (Appeal and Review) Act 2001

³ Parker v DPP (1992) 28 NSWLR 282 at 295