

# Georgia Lewer

Forbes Chambers

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## Practice

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Briefs accepted in all areas of law

Areas of specialisation

**Criminal Law** (including all types of trial, appellate and advice work)

**Inquests and Inquiries** (including coronial inquests and inquiries, Royal Commissions and special commissions of inquiry)

**Public Law** (including intentional torts, administrative law, judicial review, investigatory procedures, public interest immunity, land and environment law and constitutional law)

Admitted to practice

2009

Called to the Bar

2014

## Education

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**University of New South Wales**

LLB (Hons. Class I)

BA (English) (Hons. Class I)

Multiple scholarships and prizes, including the Honours Scholarship for English, the Lucinda Adamonovich Scholarship for Law, and the Exchange Scholarship

## Professional Background

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**Barrister**

Forbes Chambers

2014-

**Sessional lecturer**, UNSW

Court Process, Evidence and Proof

2014-2016

**Senior Solicitor**

Crown Solicitor's Office

Inquiries Practice Group

2012-2014

**Solicitor**

Children's Legal Service  
(Legal Aid NSW) and Aboriginal  
Legal Service (NSW/ACT)

Criminal solicitor

2011-2012

**Solicitor and Barrister**

North Australian Aboriginal  
Justice Agency

Criminal solicitor and barrister

2009-2011

**Tipstaff**

Supreme Court of NSW

The Hon. Justice Kirby

2008

## Representative matters

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1. **SC v R** [2020] NSWCCA 314 (led by Johnston SC), appeal under s. 5F of *Criminal Appeal Act*, construction of pilot program provisions, appointment of witness intermediary;
2. **EPA v McInnes** [2020] NSWLEC 37; [2020] NSWLEC 147 (led by Pritchard SC), prosecution of environmental offence, *Poisons Act*, meaning of “store”, criminal negligence standard, sentencing for environmental offences;
3. **Linnane (NSW (NSW Department of Planning and Environment) v Cummings** [2020] NSWDC 590; [2020] NSWDC 587; [2020] NSWDC 755 (led by Taylor SC), fatality in opal mine, work, health and safety prosecution, stay of proceedings on basis of access to compulsorily obtained materials, reasonable practicability of controls; sentencing
4. **Alameddine v R** [2020] NSWCCA 232 (led by Dhanji SC), terrorism offending, misleading evidence leading to miscarriage, whether sympathy towards extreme ideology, factual findings on sentence, accumulation and manifest excess;
5. **Watson v R** [2020] NSWCCA 215; [2020] NSWDC 582, concession on conviction appeal, miscarriage of justice and fresh evidence, invalid Child Protection Prohibition Orders leading to conviction, resentence;
6. **Dungay v R** [2020] NSWCCA 209, error in admitting Childrens Court history, Crown concession of error, parity, manifest excess, factors of youth and deprivation, resentence;
7. **Natural Resources Access Regulator v Harris & Timmins** [2020] NSWLEC 104 (led by Elliott SC), defence of offence under *Water Management Act*, use of metering equipment, prosecution amendment, construction of offence provision, meaning of “installed” and “by means of”, dismissal of all charges
8. **Environmental Protection Agency v Bartter Enterprises Pty Ltd** [2020] NSWLEC 78; **(No 2)** [2020] NSWLEC 79; **(No 3)** [2020] NSWLEC 114 (led by Buchanan SC), defended environmental prosecution, leave to adduce further evidence, breach of condition of licence, meaning of “maintain”;
9. **R v Moustafa Dib** [2020] NSWDC 145 (led by Buchen SC), sentence, conspiracy to import large commercial quantity, disputed facts, uncredited past time in custody, totality, extra-curial punishment, COVID-19 and impact on custody;
10. **IW v R** [2019] NSWCCA 311 (led by Bashir SC), historical child sexual offences, unreasonable verdicts, credibility evidence of accused, rebuttal of good character, grossly impermissible cross-examination by Crown, replay of recorded evidence of complainant;
11. **Natural Resources Access Regulator v Budvalt Pty Ltd; Harris; Harris; Timmins** [2019] NSWLEC 169; (2019) 240 LGERA 221, application by prosecutor for joinder, meaning of series of offences of the same or similar character;
12. **Kwok v Maresch** [2019] NSWSC 1151; **Kwok v Mothersole** [2019] NSWSC 1415; (2019) 240 LGERA 185, failure to vote, “sufficient reason”, honest and reasonable mistake of fact, ignorance of fact of election, statutory interpretation, *in pari materia* principle in subsequent enactment;
13. **R v KE** [2019] NSWDC 349, sexual offence, exclusion of DNA evidence, “trace DNA”, possibility of transference, risk of misuse, relevance, danger of unfair prejudice;
14. **State of NSW v Guider** [2019] NSWSC 646; **(No 2)** [2019] NSWSC 1145 (led by Johnston SC); **(No 3)** [2020] NSWSC 209, continuing detention order, extended supervision order, order for costs against the State;
15. **R v Graeme Curran** (led by Boulten SC) [2019] NSWDC 460; **Curran v R** [2020] NSWCCA 171, trial historical sexual matters, hypnotism, repressed memory, retrospectivity, sentence proceedings, unreasonable verdict, improper remarks by Crown in address;

16. **State of New South Wales v Stevenson** [2019] NSWSC 492; [2019] NSWSC 778, application for extended supervision order, test on preliminary hearing;
17. **Brown v R** [2018] NSWCCA 257, (2018) 99 NSWLR 151, sentence appeal, denial of procedural fairness, incompetence of counsel, failure to advise about giving evidence;
18. **State of NSW v Bowdidge** [2018] NSWSC 1615; [2019] NSWSC 85, Emergency Detention Order for high risk offender, variation of conditions of supervision order;
19. **State of New South Wales v Victor David Moore** [2018] NSWSC 967, application by State for extended supervision order for high risk offender;
20. **Police v Smiles & Ors** (unreported, June 2018, Day LCM) (led by Boulten SC), protesters, new offence provisions, meaning of “belonging to”, “render useless”, “road”, averment, implied freedom of political communication, deficiencies of evidence and costs;
21. **Refaieh v R** [2018] NSWCCA 72, (2018) 272 A Crim R 245, sentence appeal, appropriate back date, failure to revoke bail, meaning of “in relation to”, miscarriage of discretion;
22. **R v ST** [2018] NSWDC 22 successful remittance of matter to Childrens Court, principles to be applied, interpretation of *Children (Criminal Proceedings) Act*;
23. **R v Ransley** (unreported, November 2017, Zahra SC DCJ) (led by Johnston SC) judge alone trial after ICAC inquiry, various interlocutory applications including for permanent stay, abuse of process, doomed to fail, incontrovertibility of prior verdicts, construction of s. 178BB *Crimes Act*, client legal privilege claims, not guilty on all counts, costs;
24. **Police v Tung** (unreported, November 2017, Russell SC DCJ), application s. 219 *Law Enforcement (Powers and Responsibilities Act) 2002* for return of seized property;
25. **Fernando v State of NSW** [2017] NSWDC 387, tort, lawfulness of arrest, construction of *Law Enforcement (Powers and Responsibilities) Act 2002*;
26. **R v Robert Saenz de Heredia** (unreported, June 2017, Frearson DCJ) (led by Rosser QC) trial, attempted murder, bombing, admissibility of evidence from committal;
27. **Application by FD pursuant to s. 78 of the Crimes Appeal and Review Act 2001 (No 2)** [2017] NSWSC 869 (led by Johnston SC) application for inquiry after sentence, “Muldrock error”;
28. **Costello v R** [2017] NSWCCA 32, (2017) 79 MVR 402, successful sentence appeal, “fresh evidence”, hardship to third parties, illness of family member;
29. **Smith, Robert Arthur v Alison Byrne (New South Wales Electoral Commission)** [2017] NSWCCA 35 stated case from conviction appeal, election disclosure offence, construction of *Election Funding, Expenditure and Disclosures Act 1981*, conditions for stated case to Court of Criminal Appeal, lump sum costs order;
30. **Bugmy v State of New South Wales** [2017] NSWCA 25 (led by Buchanan SC) appeal against continuing detention order, length of order;
31. **Royal Commission into the Protection and Detention of Children in the Northern Territory** (2017) Counsel for the Central Australian Aboriginal Legal Aid Service and various child witnesses;
32. **Hikala v Constable Elliott; Treloar v Constable Elliott** [2016] NSWSC 81 appeal on legal error, plea vacation application, refusal to permit cross-examination, denial of procedural fairness;
33. **Perish v R** [2015] NSWCCA 98; **Perish v R** [2014] NSWCCA 233; **Perish v R** [2014] NSWCCA 129; **Perish v R** [2016] NSWCCA 89, (2016) 92 NSWLR 161, (led by Dhanji SC) murder conviction appeal, various interlocutory motions, claim for legal professional privilege, fresh evidence, admissibility of hearsay, admissibility “over objection”, unreasonable verdict ground;

34. **R v Hamzy** [2016] NSWSC 1512 (led by Johnston SC) murder trial, shoot with intent, self-defence, proportionality, manslaughter verdict; **Hamzy v R** [2018] NSWCCA 19 (led by Dhanji SC) unreasonable verdict, self-defence, manslaughter, sentence appeal;
35. **United Kingdom v Mark Jones** (2016, Local Court of NSW) appearance for her Majesty's Government, extradition proceedings, dual criminality;
36. **R v A2 & Ors (No 1)** [2015] NSWSC 894 (led by Jordan SC) application to exclude evidence obtained pursuant to telephone warrants issued by magistrate, statutory interpretation of the *Telephone (Interception and Access Act) 1979 (Cth)*;
37. **Royal Commission into Trade Union Governance and Corruption** (2015) various case studies and hearings;
38. **Various matters in the State Parole Authority** (2015-2017);
39. **R v JVH** (unreported, 6 November 2014, Letherbarrow DCJ) exclusion of covert evidence obtained by "agent of the State", unfairness discretion, misleading evidence;
40. **Various matters in the Mental Health Review Tribunal** (2014-2018) appearances for Minister for Mental Health and Attorney General, decisions as to whether to conditionally release, limiting terms, interpretation of the *Mental Health Act 2007* and the *Mental Health (Forensic Provisions) Act 1990*, whether proceedings unfair, whether tribunal is *functus officio*, imposition of conditions;
41. **Various inquests and inquiries in the State Coroner's Court** (2013-2019) appearances as Counsel Assisting, for family members and for sufficient interest parties in homicides, deaths in police operations, deaths in correctives custody, deaths of children in care and medical inquests; construction of *Coroners Act 2009*, self-incrimination, non-publication orders, examination of various expert and lay witnesses;
42. **Police v DG** [2012] NSWChC 18 Children's Court, leave to dismiss charges, costs;
43. **Mununggurr v Gordon** [2011] 30 NTLR 45; (2011) 253 FLR 426 judicial review proceedings for mandamus, mental illness defence, content and use of Chief Health Officer's certificates;
44. **R v Wurrawilya** [2011] NTSC 68 application to exclude confessions, breach of police procedure;
45. **Olsen v Sims** (2010) 239 FLR 405; **Olsen v Sims** (2010) 28 NTLR 116; 245 FLR 64; 206 A Crim R 454 (led by Tippet QC) appeal against conviction and sentence, repeal of offence and replacement, savings provisions, mandatory minimum sentence;
46. **R v LB** (2010) 160 NTR 1; 239 FLR 123; 203 A Crim R 152; **R v LB** (2011) 163 NTR 1; 246 FLR 466 (led by Abbott QC) application for permanent stay, invalidity of summons issued by Australian Crime Commission, requirements as to issue, appeal proceedings;
47. **Australian Crime Commission v LB** (2009) 25 NTLR 30; 234 FLR 15 (led by Abbott QC) application to set aside subpoena to Australian Crime Commission, legitimate forensic purpose, public interest immunity;
48. **George v O'Neil** (2009) 24 NTLR 228 error on warrant of commitment, validity of warrant issued after expiration of sentence, when court is *functus officio*;
49. **Burrawanga v Rigby** (2009) 24 NTLR 234 appeal against conviction, severity, recording of a conviction;
50. **Melpi v R** [2009] NTCCA 13 (led by Croucher SC) appeal against sentence, severity, offender's age and maturity;
51. **Henda v Cahill** [2009] NTSC 63 appeal against sentence, severity;
52. **R v Nagawalli** [2009] NTSC 25 (led by Lawrence QC) application to exclude alleged confession of murder suspect, compliance with *Police Administration Act 1978 (NT)*, trial, not guilty, self-defence.

## **Representative advices**

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Advices on criminal law (including as to prospects and appellate advices), evidentiary issues, intentional torts (including as to quantum), statutory interpretation, police powers and other investigatory law including telecommunication, surveillance, listening devices, search and other warrants, forensic procedures, extended supervision orders, extradition and claims for legal professional privilege.

## **Publications and Papers**

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I have prepared and presented a number of legal papers at conferences and for other professional bodies, including on topics such as:

1. Powers of search and seizure and warrants.
2. Judicial Review for criminal lawyers.
3. Evidence procured by “agents of the State”.
4. Hearsay exceptions.
5. Trial practices.
6. Government Privileges.
7. Centrelink Debts and Prosecution.

Further details are available on request.