

Peach v Bird

22 June 2005

**Mildren, Riley & Southwood JJ
Extempore**

The respondent was found not guilty in the Darwin Court of Summary Jurisdiction of one count of possessing child pornography.

The prosecution subsequently appealed to the Supreme Court against the finding of not guilty and the dismissal of the complaint. At the conclusion of the hearing of the appeal the judge, Bailey J, dismissed the appeal stating he would publish his reasons at a later date. Bailey J died without delivering reasons for dismissing the appeal. The case was such that the mere statement of the judge's conclusion was, in itself, insufficient to indicate the basis of the decision. Further, the failure to give reasons denied the prosecution the opportunity, if aggrieved, of exercising its statutory right of appeal from a judgment of the Supreme Court.

As a result, the prosecution appealed to the Court of Appeal on the ground that the failure to deliver reasons for judgment amounted to an error of law. The appeal was not opposed by the respondent. The court ordered that -

- (i) the judgment of Bailey J be set aside, and
- (ii) the matter be remitted to the Supreme Court to be reheard before another judge.