

<b>Case</b>	<b>Villis v R [2014] NSWCCA 74</b>
<b>Judgment</b>	<b>Bathurst CJ, Fullerton J, Bellew J</b>
	Conviction Appeal
<b>Charge</b>	1 x Supply of commercial quantity of methylamphetamine – s 25(2) <i>Drug Misuse and Trafficking Act 1985</i>
<b>Facts</b>	<ul style="list-style-type: none"> <li>• The issue in the trial was narrow and required the jury to determine whether the bag in the car, containing methylamphetamine was the accused's or an associate who gave evidence as a Crown witness.</li> <li>• Initially, the jury were told the trial would take 5-6 days. The evidence in the trial took 8 days to complete. As a result a number of jurors had availability issues, and one juror was dismissed on the 8<sup>th</sup> day due to illness.</li> <li>• On the 8<sup>th</sup> day at 230pm, the jury were sent out to consider their verdict.</li> <li>• On the 9<sup>th</sup> day, after a total of 4.5 hours of deliberation, the jury sent a note indicating they were deadlocked 9:2. The judge delivered a <i>Black v R</i> [1993] HCA 71; 179 CLR 44 direction.</li> <li>• The judge was unable to discharge the jury as 8 hours had not elapsed, and his Honour was unable to apply the provisions in s 55F or s 56 <i>Jury Act 1977</i>; see [15] and [28].</li> <li>• After 6.5 hours of deliberation, the foreperson was brought in to see if jurors required further assistance and whether they were prepared to continue their deliberation the following week. The foreperson provided a firm indication no more deliberation would assist. The Judge asked the foreperson to consult his fellow jury members as to whether they required further assistance or else he would discharge them.</li> <li>• The jury returned shortly after with a guilty verdict.</li> </ul>
<b>Result</b>	The conviction was quashed as there was a risk that the foreperson may have misunderstood the judge's comment about discharging the jury and the verdict was compromised by the pressure of time restraint.

<b>Case:</b>	<b>R v BC [2018] NSWDC 124</b>
<b>Judgement</b>	<b>Haesler DCJ</b>
<b>Charges</b>	6 x Sexual intercourse with child <10 years – s 66A <i>Crimes Act 1900</i> 5 x Aggravated indecent assault – s 61M(2) <i>Crimes Act 1900</i> 3 x Aggravated sexual intercourse child between 10 and 14 years – s 66C(2) <i>Crimes Act 1900</i>
<b>Facts</b>	<ul style="list-style-type: none"> <li>• Child sexual assault trial. Complainant was the only witness to the allegations and acceptance of her account could prove the allegations.</li> <li>• After 10 days of evidence, with a number of interruptions and bushfires in the area, the jury were sent out to consider their verdict.</li> <li>• After 3 hours of deliberation, that commenced on Friday afternoon, and recommenced the following Monday, the jury indicated they could not reach a unanimous verdict. The judge delivered a <i>Black v R</i> [1993] HCA 71; 179 CLR 44 direction.</li> <li>• After approximately 4 hours of deliberation, the jury indicated they could not agree. The judge provided another shorter <i>Black</i> direction.</li> <li>• Approximately 20 minutes later, the jury again indicated they could not agree.</li> <li>• The judge was unable to discharge the jury as 8 hours had not elapsed, and his Honour was unable to apply the provisions in s 55F or s 56 <i>Jury Act 1977</i>; <i>Hunt v R</i> [2011] NSWCCA 152.</li> <li>• The judge was unable to advise the Jury about the availability, and the conditions that were required to provide a majority verdict direction; <i>RJS v Rejina</i> [2007] NSWCCA 241.</li> </ul>
<b>Result</b>	Notwithstanding the common law authority requiring the judge to wait under the preconditions in ss 55F and 56 were met, the jury was discharged to prevent injustice to the Crown and the accused. Continuing to exhort them to deliberate where the jury provided multiple, clear indications about inability to reach a verdict created a real risk that they would return a compromised verdict.