

# SUPREME COURT OF QUEENSLAND

CITATION: *R v Bonham; Ex parte Director of Public Prosecutions (Cth)*  
[2014] QCA 182

PARTIES: **R**  
**v**  
**BONHAM, George**  
(respondent)  
**EX PARTE COMMONWEALTH DIRECTOR OF**  
**PUBLIC PROSECUTIONS**  
(appellant)

FILE NO/S: CA No 79 of 2014  
SC No 38 of 2013

DIVISION: Court of Appeal

PROCEEDING: Sentence Appeal by Director of Public Prosecutions (Cth) –  
Further Order

ORIGINATING  
COURT: Supreme Court at Cairns

DELIVERED ON: 5 August 2014

DELIVERED AT: Brisbane

HEARING DATE: Heard on the papers

JUDGES: Margaret McMurdo P and Philippides and Dalton JJ  
Separate reasons for judgment of each member of the Court,  
each concurring as to the order made

ORDER: **The application for an indemnity certificate under s 15 of  
the *Appeal Costs Fund Act 1973 (Qld)* is refused.**

CATCHWORDS: APPEAL AND NEW TRIAL – APPEAL – PRACTICE  
AND PROCEDURE – QUEENSLAND – APPEAL COSTS  
FUND – POWER TO GRANT INDEMNITY CERTIFICATE –  
WHEN REFUSED – where on 13 June 2014 the Court  
ordered the appeal in this criminal matter be dismissed –  
where the respondent applied for an indemnity certificate  
under s 15 of the *Appeal Costs Fund Act 1973 (Qld)* on the  
basis that he had not contributed to his liability for the  
additional costs of the appeal – whether an indemnity  
certificate should be granted

*Appeal Costs Fund Act 1973 (Qld), s 15*

*R v Bonham; Ex parte Director of Public Prosecutions (Cth)*  
[\[2014\] QCA 140](#), related

COUNSEL: No appearance for the appellant  
No appearance for the respondent, the respondent’s  
submissions were heard on the papers

SOLICITORS: Director of Public Prosecutions (Commonwealth) for the appellant  
Brisbane Criminal Lawyers for the respondent

- [1] **MARGARET McMURDO P:** On 13 June 2014 this Court dismissed an appeal brought by the Commonwealth Director of Public Prosecutions against the inadequacy of the sentence imposed on the present applicant who was the respondent to that appeal: see *R v Bonham; Ex parte Director of Prosecutions (Cth)*.<sup>1</sup>
- [2] Mr Bonham has applied for an indemnity certificate under s 15 *Appeal Costs Fund Act 1973* (Qld). That section provides:
- "15 Grant of indemnity certificate
- (1) Where an appeal against the decision of a court –
- (a) to the Supreme Court;
- (b) to the High Court of Australia from a decision of the Supreme Court;
- on a question of law succeeds, the Supreme Court may, upon application made in that behalf, grant to any respondent to the appeal an indemnity certificate in respect of the appeal.
- (2) Where an appeal against the decision of a court to the District Court on a question of law succeeds, the District Court may, upon application made in that behalf, grant to any respondent to the appeal an indemnity certificate in respect of the appeal."
- [3] The applicant does not come within either sub-section of s 15. As far as I can see there is nothing in any other provision of the *Appeal Costs Fund Act 1973* (Qld) which would entitle him to apply for an indemnity certificate. This Court's discretion to grant an indemnity certificate under the Act is not enlivened. His application must be refused.
- [4] **PHILIPPIDES J:** I agree with McMurdo P.
- [5] **DALTON J:** I agree.

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<sup>1</sup> [2014] QCA 140.