

15.4/83

SUPREME COURT OF WESTERN AUSTRALIA

BAKER v FLYNN

Olney J

7 May 1982 — (1982) WAR 289

SENTENCING – DEFENDANT PLEADED GUILTY TO UNLAWFUL ASSAULT – THE PROSECUTOR GAVE A VERSION OF THE FACTS WHICH WAS DISPUTED BY THE DEFENDANT – DEFENDANT SENTENCED TO IMPRISONMENT – COURT IN ERROR – DEFENDANT SHOULD HAVE BEEN GIVEN THE OPPORTUNITY TO GIVE HIS OWN VERSION OR THE COURT COULD HAVE SENTENCED HIM ON THE BASIS OF HIS VERSION.

OLNEY J: In allowing the appeal in the circumstances, the appellant should have been given the opportunity to support his version of the facts by evidence before the Justices proceeded to sentence him or, alternatively, the Justices should have made it clear before sentencing him that they were proceeding on the basis of his version.
