

PART 4.5 - WARNINGS

NO WARNING
parties dispute (Serratore)
witness evidence is different from contemporaneous E. (Nguyen, Tran)
evidence of complainant from sexual assault

WARNING GIVEN
framed by police (Richards)
selective video tapping (Kelly)
E by police informers
E of demonstration in court of the accused of how they would look (Kirby)
Corrupt police (Lonnie [1999] NSWCCA)
Sentence discounting (Stewart)
E regarding behaviour of tracker dog (Barnes)
E that may be effected by hypnosis
E of identification that is outside the Acts dictionary defn

CL continues to have a role

§165(5)

E of "Kind"

expansive = "Kind"?

Stewart Sp. CJ

Kirby, J
Baartman
[2000]NSWCCA
Stewart How. J

R v BWT (2002) NSWLR

Zorad (1990) NSWLR

Broneley (1986) HCA

restrictive = "Kind"?

Party to request (a) (b)(c) <--(3)
The judge need not comply with subsection (2) if there are **good** reasons for not doing so

Taranto [1999] NSWCCA

WARNING GIVEN? NO
YES

§165(2)
(a)E unrLble
(b)matters may Un
(c)caution plus weight

REQUEST MADE?

NO

Rsns 2b given in most cases

Fernando [1999] NSWCCA

For sexual assault cases
Murray (1987) NSWLR, where only one witness, the evidence must be sruct. With great care

Longman "unsafe or dangerous" for uncorroborated evidence (reinforced by Crampton and Dogget) after elapse of time (but what amount of time is unknown)

Crofts, binary effects of complaint delay, not exclude, but consider s107 CPA

KRM, separate consideration of charges except where admissible

Any warning as to credit s108(3) , s66 as fact asserted, (rather than truth value)

Gipp evidence of uncharged conduct in a relationship, to nature but not to substitute for the act

UEA s98 coincidence

BRS limitation of criminal propensity to coincidence on guilt.

§165(1)(a)
Hearsay

Admissons

§165(1)(c)
-AGE/HEALTH E

IDENTIFCATION

§165(1)(b)
Possible accopmlce (E)

§165(1)(d)
sentence discounts
Stewart (split)
Conway (4of18)
Grey
Sullivan + Miscarage
Chen
Xptn Privett

§165(1)(e)
Prison INFORMER

when (almost always) + focus (stress danger), 18.32pg 920

Politt [1992]HCA

§165(1)(f)
Not Signed

§165(1)(g)
B1/2 of Dead.

Not req for circumstanital ID
Benz, Festa

Co Accused, wider ambit

Johnston[2004] NSWCCA
Webb(1994)HCA

SUM Σ

NOTE PROVISIO EVEN IF E IS
WRONGLY ADMIITED s6(1) CAA
(1912) NSW, "No sustantial" MCoJ