

ANDREW BOE

Year of call - 1989
Year of silk – 2009

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Andrew operates a national practice and has appeared in courts and tribunals in most states and territories of Australia. He maintains chambers in Sydney and Brisbane.

AREAS OF PRACTICE

Criminal Law
Administrative Law
Appeals
Commissions of Inquiry
Professional Regulation/Indemnity

EDUCATION

1989 Bachelor of Laws, Queensland University of Technology

CAREER HISTORY

1989 Admission as a legal practitioner.
2005 Accredited as a Criminal Law Specialist in Queensland.
Appointed a Member of the QLS Criminal Law Specialist Accreditation Committee.
2009 Commenced practice as a barrister.
Membership of both the Queensland and NSW Bar Associations.
2012 Accredited as specialist appellate counsel by the Legal Aid Commission (NSW).
2013 Membership of the Queensland Bar Association's Criminal Law Committee.
2018 Membership of the New South Wales Bar Association's First Nations Committee
Membership of the Australian Bar Association's Indigenous Committee as well as its Criminal Law Committee.

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CHAMBERS

Level 31, 239 George Street,
Brisbane QLD 4000

Selected cases conducted as a solicitor

R v Kina CA 293 of 1993

This case involved the recognition of the 'battered woman' defence and indigenous 'cross-cultural' communication issues. It resulted in a systemic change to the way issues of domestic violence and representation of indigenous people are viewed within the courts.

Boe v Criminal Justice Commission OS 319 of 1993

Andrew filed proceedings (as the applicant) that successfully required the Commission to monitor and report upon the adequacy of government funding of the criminal justice system.

R v Milat; A-G (NSW) v Milat NSWCA 60453 of 1995; *Regina v Milat* 1998 NSWSC 795

This was the infamous 'backpacker murders' case. Andrew assembled a Queensland based team to conduct Milat's trial in Sydney.

Ettridge v DPP 2003 QCA 410; *R v Pauline Hanson & David Ettridge* 2003 QCA 488

Ettridge and Hanson were the main proponents of One Nation at the time. They were convicted at trial of political corruption and fraud. Andrew assembled a team for Ettridge which included NSW silk Bret Walker to successfully overturn their convictions.

KBT v The Queen (1997) 191 CLR 417

The Court of Appeal identified a patent error but applied the proviso to dismiss the appeal. The High Court intervened in favour of the appellant. The principles in *KBT* continue to be applied in cases involving compound offences and issues concerning jury unanimity.

Gribbin (Magistrate) v Fingleton (Chief Magistrate) [2003] 1 Qd R 698; [2002] QSC 390

Cornack (Magistrate) v Fingleton (Chief Magistrate) [2003] 1 Qd R 667; [2001] QSC 391

Andrew acted for three Queensland magistrates as they successfully challenged decisions of the Chief Magistrate which infringed their judicial independence. These were landmark cases which changed the landscape for magistrates in Queensland.

M v State of Queensland (2003) QCA 249

This case is the first instance in Queensland where a statute was struck down for constitutional invalidity under *Kable* principles.

Palm Island – Death in custody

Andrew was involved in the coronial inquest and associated litigation concerning the death in police custody of Cameron Doomadgee (Mulrunji) on Palm Island in 2004. These cases became the subject of an award-winning book by Chloe Hooper and an SBS documentary both called The Tall Man.

National practice as counsel

Queensland, New South Wales, Western Australia & Northern Territory

Andrew has appeared in numerous (50+) criminal appeals in the Queensland Court of Appeal. He has also conducted trials and appeals in Western Australia including: *Daniels v State of Western Australia* [2012] WASCA 213; *Western Australia v Munda* (2012) 43 WAR 137; [2012] WASCA 164 and *KJM v The State of Western Australia* [2013] WASCA 23. He has appeared in cases in the Northern Territory concerning child protection issues.

High Court of Australia

Andrew has appeared in the High Court of Australia:

Couchy v Del Vecchio [2004] HCATrans 520 – special leave (as solicitor advocate)
Indigenous woman gaoled for swearing at a police officer.

BBH v The Queen [2011] HCA Trans 121 (led by Walker SC, with Morreau) – special leave
BBH v The Queen (2012) 245 CLR 499; [2012] HCA 9 (led by Walker SC and Callaghan SC)
The admissibility of uncharged acts and trial directions in a criminal trial.

Western Australia v Munda [2013] HCA Trans 136 (led by Callaghan SC) – special leave
Western Australia v Munda [2013] HCA Trans 168 (leading D Brunello)
Munda v Western Australia [2013] HCA 38 (leading Brunello) judgement.
The permissible framework for a prosecution appeal against sentence and the proper regard for an offender's indigenous background in sentencing.

Smith v The Queen [2015] HCA Trans 84 (leading Dighton) – special leave
Smith v The Queen [2015] HCA Trans 143 (leading Morreau and McGee) AV recording of Full Court hearing
The need for unanimity in a jury verdict and related issues.

Simmons v The Queen [2016] HCASL 37 (leading O'Brien and McGee)
The admissibility of sexual activity with another person in determining the issue of consent.

Kencian & Anor v Watney [2017] HCASL 270 (leading McCafferty and Fuller)
The setting aside of a jury verdict by an intermediary court of appeal

NB & Ors v SB & Ors [2020] HCATrans 168 (16 October 2020) (leading Dighton and Morreau)
Child Protection Act (NT) and the relevance of the child's indigenouness.

Royal Commissions

April 2014, Case Study 12 – Independent School, Perth, Royal Commission into Institutional Responses to Child Sexual Abuse, Perth, WA

July 2014, Case Study 15 - Swimming Australia, Royal Commission into Institutional Responses to Child Sexual Abuse, Sydney NSW

March 2016, Case Study 39 – Sporting Clubs, Sydney NSW

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