



## HIGH COURT OF AUSTRALIA

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#### Details of Filing

File Number: B32/2020  
File Title: Peniamina v. The Queen  
Registry: Brisbane  
Document filed: Form 27F - Outline of oral argument-Appellant  
Filing party: Appellant  
Date filed: 14 Oct 2020

#### Important Information

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BETWEEN:

**ARONA PENIAMINA**

Appellant

and

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**THE QUEEN**

Respondent

### **APPELLANT'S OUTLINE OF ORAL SUBMISSIONS**

#### **Part I: Certification**

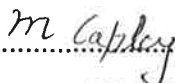
1. I certify that this outline is in a form suitable for publication on the internet.

#### **20 Part II: Propositions to be advanced**

2. Where reliance is placed on provocation to reduce murder to manslaughter for a killing of one's spouse the requirement to prove that the circumstances were extreme and exceptional only arises if the accused's loss of self-control was caused by either his spouse's ending of or changing of their relationship or caused by a belief on his part that his spouse was ending or changing the relationship.
3. In the present case the accused's loss of self-control was not caused by anything done by his wife or anything he believed she had done to end or change their relationship.

4. What is said at 2 above follows from a proper understanding of what is meant by the expression “*sudden provocation*” in section 304(1) of the *Criminal Code* as enunciated in *Pollock v The Queen* (2010) 242 CLR 233.
5. In s 304(3) of the *Code* the expression “the sudden provocation” is a reference back to “sudden provocation” in s 304(1).
6. Whether the sudden provocation is based on the conduct or believed conduct spoken of in s304(3) is simply a matter of causation and the dissenting judge in the Court of Appeal was correct so to hold.
7. The approach taken by the majority in the Court of Appeal was wrong. Their  
10 interpretation failed to consider the words “is based on” in their context. It results in a jury being required to inquire into a deceased person’s motivation for conduct.
8. The appellant was obliged to overcome an obstacle to acquittal on murder he was not lawfully required to surmount.

Dated: 14 October 2020

  
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