

# Kathleen Heath

## Barrister

Maurice Byers Chambers  
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### ADMISSIONS

2020 Barrister, New South Wales Bar  
2014 Solicitor, Supreme Court of New South Wales and High Court of Australia

### EDUCATION

2016 **Master of Laws, Harvard Law School**  
Fulbright Scholarship  
WG Walker Scholar Prize for highest ranked Australia Fulbright Postgraduate Scholar  
Frank Knox Memorial Fellowship to Harvard  
2013 **Bachelor of Laws, University of Sydney**  
University Medal in Law  
2011 **Bachelor of Economics and Social Sciences, University of Sydney**

### PROFESSIONAL

2020 (ongoing) Barrister, Maurice Byers Chambers  
2016-2020 Lawyer, Aboriginal Legal Service of Western Australia  
2016 ArchCity Defenders, St Louis, Missouri  
2014-2015 Tipstaff and researcher to the Honourable Justice Margaret Beazley AO, President of the NSW Court of Appeal  
2012-2014 Researcher, Sydney Centre for International Law, University of Sydney  
2013 Intern, NSW Public Defenders Office  
2011 Intern, Capital Post-Conviction Project of Louisiana  
2010-2011 Intern, Wirringa Baiya Aboriginal Women's Legal Service

## **PROFESSIONAL AWARDS**

2021	Peteris Ginters Prize, highest mark in ethics bar examination
2020	Katrina Dawson Award, NSW Bar Association
2018	Hodge Award, Criminal Lawyers Association of WA

## **ACADEMIC AWARDS**

2016	Dean's Scholar Prize, Criminal Justice Policy Fellowship (Harvard Law School)
2013	Best Oralist in the Grand Final and Winner of Australian Rounds, Phillip C Jessup International Law Moot Ian Joye Prize in Law (highest weighted average mark across Law II and III) John George Dalley Prize 1A (most proficient student in final year of combined law) Joye Prize in Law Nancy Gordon Smith Prize for Honours at Graduation RG Henderson Memorial Prize Rose Scott Prize for Proficiency at Graduation by a Woman Candidate Sybil Morrison Prize for Jurisprudence University of Sydney Academic Merit Prize
2012	Winner, Gilbert + Tobin Federal Constitutional Law Moot George and Matilda Harris Scholarship for No. 1 in Law II Lexis Nexis Book Prize No. 5 for Most Proficient in Law II ED Roper Memorial Prize No. 1 for Equity and Corporations Law John Geddes Prize for equity University of Sydney Academic Merit Prize
2008	Discipline of Operations Management and Economics Prize in Business and Economic Statistics University of Sydney Outstanding Achievement Scholarship

## **PROFESSIONAL MEMBERSHIPS**

2020 – ongoing	Human Rights Committee, NSW Bar Association
2023 – ongoing	Australian Lawyers Surfing Association
2020 – ongoing	Diverse Women in Law, Mentor
2020-2021	Diversity and Equality Committee, NSW Bar Association

## SELECT CASES

### Criminal – appellate

<i>Rex v DB</i> [2022] HCATrans 230	Led by S Dowling SC and H Roberts SC	Application for special leave to the High Court – interpretation of the <i>Mental Health and Cognitive Impairment Forensic Provisions Act 2020</i> – sexsomnia
<i>EC v R</i> [2023] NSWCCA 66	Unled	Conviction appeal – miscarriage of justice – fresh evidence – sexual intercourse with a child
<i>Regina v AB; R v CD; R v EF</i> [2023] NSWCCA 168	Led by P Hertzfeld SC and C Tran	Appeal pursuant to s 108(2) of the <i>Crimes (Appeal and Review) Act 2001</i> (NSW) – foreign bribery – proper construction of s 70.2 of the <i>Criminal Code</i> (Cth)
<i>Regina v DB</i> [2022] NSWCCA 87	Led by H Roberts SC	Crown appeal against conviction – interpretation of the <i>Mental Health and Cognitive Impairment Forensic Provisions Act 2020</i> - sexsomnia
<i>R v Omari</i> [2022] ACTCA 4	Led by M Thangaraj SC	Crown appeal against sentence – importation and drug trafficking
<i>Naberezhnov v R</i> [2021] NSWCCA 142	Led by D Carroll	Sentence appeal – supply of a prohibited drug as a dance festival – considerations relevant to objective seriousness
<i>EYO v State of Western Australia</i> [2019] WASCA 129	Led by J Gullaci SC	Conviction appeal – incompetence of counsel – failure to advise of mandatory minimum sentence
<i>State of Western Australia v Yamalulu</i> [2019] WASCA 6	Unled	Sentence appeal – aggravated grievous bodily harm – manifest inadequacy
<i>Application by Cartman (a pseudonym) pursuant to s 78 Crimes (Appeal and Review) Act 2001</i> [2021] NSWSC 308	On the papers	Conviction review – fresh evidence - <i>Crimes (Appeal and Review) Act 2001</i> , Part 7
<i>MJ v Sanders</i> [2020] WASC 150	Unled	Conviction appeal – miscarriage of justice – duplicitous charges
<i>Hayter v Thomson</i> [2020] WASC	Unled	Sentence appeal – possession of drug with intent to sell or supply – breach of totality principle
<i>Walker v Saunders</i> [2020] WASC	Unled	Sentence appeal – double punishment – mental impairment
<i>Clarkson v Dainton</i> [2017] WASC 309	Unled	Conviction appeal – whether convictions of a child should be regarded as “convictions” – <i>Young Offenders Act 1994</i> (WA), s 189

## Criminal – trial

<i>Commonwealth Director of Public Prosecutions v PD, MR and GL</i> (NSWSC 2022)	Led by G Craddock SC and Sean Flood	Jury trial - foreign bribery
<i>State of Western Australia v Jones</i> [2018] WASC 395	Led by J Kelly SC	Trial by judge alone – murder – defence of mental impairment
<i>R v Jasmine Clarke</i> (NSWDC 2021)	Unled	Trial by judge alone – possession of drugs and firearms
<i>R v Ronald Riley</i> (NSWDC 2021)	Unled	Jury trial – sexual assault
<i>R v Ralph Gerrard</i> (WADC 2020)	Unled	Jury trial – sexual assault – exclusion of forensic evidence
<i>R v Jarod Smith</i> (WADC 2020)	Unled	Jury trial – charge of wounding with intent – issues of specific intent
<i>R v Basil Clements</i> (WADC 2018)	Unled	Jury trial – charge of assault occasioning grievous bodily harm
<i>NSW Police v Manwarring</i> [2022] NSWLC 24	Led by J Stratton SC	Cultivate cannabis – exclusion of evidence obtained as a consequence of police impropriety

## Inquests and inquiries

Counsel Assisting the Special Commission of Inquiry into LGBTIQ hate crimes (2022-2023)	Led by P Gray SC and J Emmett SC	Inquiry into the manner and cause of unsolved deaths suspects of being LGBTIQ hate crimes – appeared unled at public and private hearings
<i>Inquest into the death of Yakamurro</i> [2022] NSWCorC 96	Unled	Coronial inquest – suicide of 15-year old First Nations boy in out-of home care – for the family, briefed by the North Australian Aboriginal Family Legal Service
<i>Inquest into the death of Kulum</i> (ongoing)	Unled	Coronial inquest – suicide of First Nations child in out-of-home care, briefed by the North Australian Aboriginal Justice Agency
<i>Advice to the Attorney General, Petition by Kathleen Folbigg for pardon</i> (2021)	Led by T Game SC and J Davidson	Petition by Ms Folbigg for a pardon – <i>Crimes (Appeal and Review) Act 2001</i> , Part 7

## Public and administrative

<i>CCU21 v Minister for Home Affairs</i> [2023] FCAFC 87	Led by T Brennan SC; with C Brain	Migration – judicial review of a cancellation decision and refusal to revoke – adverse security assessment by ASIO
<i>EUF20 v Minister for Immigration, Citizenship and Multicultural Affairs</i> [2023] FCAFC 130	Led by A Hochroth	Migration – judicial review of a decision to cancel a visa – failure to consider new information
<i>Minister for Immigration, Citizenship and Multicultural Affairs v EVE21</i> [2023] FCAFC 91	Led by A Hochroth	Migration – invalidity of regulation
<i>Belan v ODPF</i> [2021] NSWCA 96	Led by B Baker SC	Judicial review – conviction and sentence – fraud
<i>Dacich v Commissioner of Corrective Services</i> [2020] NSWCA 359	Unled	Appeal – habeas corpus application – for the Commissioner of Corrective Services
<i>CCU21 v Minister for Home Affairs</i> [2022] FCA 28	Led by T Brennan SC	Migration – judicial review of a visa cancellation decision and a refusal to revoke – adverse security assessment by ASIO – functions of ASIO security assessment
<i>EVE21 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs</i> [2022] FedCFamC2G 729	Unled	Migration – invalidity of regulation providing for the deemed receipt of documents posted to visa holders in jail
<i>Merkoreh v State Parole Authority</i> [2021] NSWSC 371	Unled	Application pursuant to s 155 of the <i>Crimes (Administration of Sentences) Act 1999</i>
<i>Osman v Parole Authority of NSW</i> [2021] NSWSC 975	Unled	Judicial review – decision of the State Parole Authority
<i>Fisher v Combat Sports Authority of NSW</i> [2022] NSWCATAD 238	Unled	Review of a decision – registration of a combatant in the Amateur Boxing registration class
<i>Re JFSQ v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs</i> (2020/8603, AAT)	Unled	Migration – application for a protection visa – refusal under s 36(1C) of the <i>Migration Act 1958</i> – whether the applicant a danger to the community – mental health
<i>Re NKHH and Minister for Immigration, Citizenship, Migrant Service and Multicultural Affairs</i> [2021] AATA 1033	Unled	Migration – application for revocation of mandatory cancellation of visa on character grounds
<i>Re VPWH and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs</i> [2021] AATA 2362	Unled	Migration – application for a protection visa – refusal under s 36(1C) of the <i>Migration Act 1958</i> – whether the applicant a danger to the community

## Common law

<i>EIX20 v State of Western Australia; ELY20 v State of Western Australia</i> (WAD218/2020) (ongoing)	Led by G Watson SC, A Hochroth	Young people detained at Banksia Hill Detention Centre – claims of negligence, intentional torts, disability discrimination and racial discrimination
<i>Zoran Pletikosa v Safa Georgis et al</i> (2022/89650) (settled at mediation)	Led by D Graham SC	Medical negligence – failure to detect renal cell carcinoma
<i>Barry Melan by his tutor Josephine Melan v Western Sydney Local Health District</i> (2020/257928) (settled at mediation)	Led by D Graham SC	Medical negligence – birth injury
<i>Re matters of Transitory Persons under the Migration Act</i> (various matters, settled at mediation)	Led by N Chen SC, G Johnson SC, P Knowles and T Liu	Negligence – claims in tort against the Commonwealth relating to regional processing arrangements in Nauru and Papua New Guinea
<i>Leonard v State of NSW</i> [2020] NSWDC 750	Unled	Interlocutory application – police tort

## Terrorism and High Risk Offender cases

<i>State of NSW v Reginald Collingwood (a pseudonym)</i> [2021] NSWSC 1365	Led by S Callan SC	High risk terrorism offender – male supremacist
<i>State of NSW v Colb (Final)</i> [2023] NSWSC 969	Unled	High risk violent offender – index offence of murder
<i>State of NSW v Woods (Preliminary)</i> [2022] NSWSC 68	Unled	High risk sex offender – repeat sexual offender
<i>State of NSW v Vu (Final)</i> [2021] NSWSC 1282	Unled	High risk violent offender – index offence of murder – domestic violence
<i>State of NSW v Vu (Preliminary)</i> [2021] NSWSC 902	Unled	High risk violent offender – index offence of murder – domestic violence
<i>State of NSW v CD (Preliminary)</i> [2021] NSWSC 1396	Unled	High risk sex offender – relationship between parole conditions and conditions of an interim supervision order
<i>State of NSW v New (Preliminary)</i> [2021] NSWSC 1376	Unled	High risk sex offender