



Judgment Summary

Supreme Court
Australian Capital Territory
Court Of Appeal

Thursday, 26 October 2023

Incandela v The Queen [2023] ACTCA 41

Loukas-Karlsson, Baker and Charlesworth JJ

The Court of Appeal has dismissed an appeal against a conviction for one count of sexual assault. The Court found that the appellant failed to establish that that jury's verdict was unreasonable or that a miscarriage of justice had occurred.

The appellant alleged that the jury's guilty verdict was unsafe and unsatisfactory as a result of various matters, including an alleged lack of corroboration of the complainant's account and alleged inconsistencies in the evidence. The Court considered all the evidence in the trial and found that the complainant's account was compelling and that there were no inconsistencies in the evidence which shed doubt on her credibility. The Court emphasised that the requirement for corroboration of a complainant's evidence in sexual assault cases has been abolished, although noting that in the present case, there was a range of corroborating evidence including evidence of injuries and eyewitnesses.

The Court of Appeal also considered whether a miscarriage of justice had arisen as a result of various specified issues, including alleged errors in the directions provided in relation to intoxication and consent. The Court found that the warning, directions and summing up given by the trial judge were appropriate. The Court concluded that there had been no miscarriage of justice.

This summary has been prepared for general information only. It is not intended to be a substitute for the judgment of the Court or to be used in any later consideration of the Court's judgment.

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