



HIGH COURT OF AUSTRALIA

20 June 2018

DL v THE QUEEN
[2018] HCA 26

Today the High Court, by majority, dismissed an appeal from the Full Court of the Supreme Court of South Australia, sitting as the Court of Criminal Appeal, holding that the trial judge's reasons for convicting the appellant were not inadequate.

The appellant was charged under s 50(1) of the *Criminal Law Consolidation Act 1935* (SA) with one count of persistent sexual exploitation of a child. At the relevant time, s 50(1) provided that it was an offence for an adult to commit "over a period of not less than 3 days ... more than 1 act of sexual exploitation of a particular child". The complainant, the appellant's nephew, alleged that the appellant committed various acts of sexual exploitation when the complainant was aged between five and 15 years.

The appellant was tried by judge alone, convicted and sentenced to 10 years' imprisonment. The appellant had submitted that a number of alleged inconsistencies and implausibilities in the complainant's evidence meant that the complainant could not be "relied upon about the substantive allegations". The trial judge described the complainant as having given evidence "in a forthright and convincing manner", and said the complainant was "a straightforward man", was "a man endeavouring to tell the truth" and "was describing real events that happened to him". Although the trial judge accepted that the complainant's evidence about the timing of some events was inaccurate, he regarded the complainant as "a reliable witness as to the core allegations". The appellant appealed to the Court of Criminal Appeal, but the appeal was dismissed.

By grant of special leave, the appellant appealed to the High Court. The appellant's argument reduced ultimately to whether the trial judge's reasons were inadequate because they failed to identify the two or more acts of sexual exploitation found to be proved beyond reasonable doubt, and the process of reasoning leading to the conclusion of the appellant's guilt of those acts.

By majority, the Court dismissed the appeal. It held that the trial judge's ultimate conclusion was that the appellant sexually assaulted the complainant on numerous occasions over a period of some years. This conclusion meant that the elements of the offence had been proved. The majority held that the trial judge's findings that the complainant was reliable as to the "core allegations" and was describing "real events" were an acceptance that the complainant was truthful and reliable about all of the sexual acts that he had described. The majority concluded that the reasons were sufficient to identify, and to disclose the process of reasoning leading to the trial judge's finding of, two or more acts of sexual exploitation upon which the conviction was based.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*