

COUGHLAN v THE QUEEN (B60/2019)

Court appealed from: Court of Appeal of the Supreme Court of Queensland
[2019] QCA 65

Date of judgment: 16 April 2019

Special leave granted: 18 October 2019

Between about 5:00pm and 6:00pm on 18 July 2015 a house owned by Mr Eamonn Coughlan was destroyed by an explosion and fire. At the time of the explosion Mr Coughlan was walking from the back yard towards the front of the house, and he suffered burns from the blast. He immediately ran down the road and then rode away on a motorbike that he had left in a nearby car park. After 9:00pm that evening Mr Coughlan walked into a police station, where he was later interviewed by officers. The next day, Mr Coughlan made a claim on an insurance policy for the house.

Mr Coughlan told the police that he was trying to sell the motorbike and that he had arranged to meet a potential buyer at the house. He parked the motorbike away from the house as a safeguard against someone taking the bike without paying for it. Mr Coughlan had told his wife however that he was going to see people from the four-wheel-drive club. After the explosion, Mr Coughlan panicked. He rode for a considerable time, making many turns because he thought that someone might be following him. He could not find his mobile phone, so he did not try to call his wife or anyone else. He said that he did not go home because he did not want to take home whatever problem there was.

Mr Coughlan was later charged with arson and attempted fraud. After pleading not guilty, he represented himself at a trial before a jury. Expert witnesses were unable to conclude what had caused the explosion or what fuel had been involved. On 6 June 2018 the jury found Mr Coughlan guilty of both charges.

In an appeal against his conviction, Mr Coughlan (through legal representatives) contended that the jury's verdicts were unreasonable and could not be supported by the evidence. Matters raised included evidence given by witnesses that a man whose appearance and clothing differed from Mr Coughlan's was seen fleeing immediately after the blast, and scientific evidence as to petrol residue found on Mr Coughlan's pants and shoes. Mr Coughlan argued that the verdicts were unreasonable because his alternative hypothesis, that someone else had caused the explosion, was not excluded.

The Court of Appeal (Fraser and Morrison JJA and Mullins J) unanimously dismissed Mr Coughlan's appeal. Their Honours considered that it was open to the jury to be satisfied beyond reasonable doubt that it was Mr Coughlan who was seen running from the house and riding away on his motorbike, and that there was no foundation for a conclusion that Mr Coughlan was pursued by someone. The Court of Appeal found that the jury could rightly reject the possibility that any of certain other persons in the vicinity of the house could have been involved in causing the explosion. Their Honours considered that the obvious explanation for petrol residue on Mr Coughlan's clothing was that

Mr Coughlan had been involved in distributing petrol at the house. Although there was no obvious motive for Mr Coughlan to cause the explosion, the evidence might have suggested to the jury that Mr Coughlan had a volatile character and that the explosion was the result of a black mood of his.

The ground of appeal is:

- The Court of Appeal's analysis as to whether the verdicts of the jury were unsafe misapplied the principles in *M v The Queen* (1994) 181 CLR 487; [1994] HCA 63 in that the analysis merely identified a pathway to a guilty verdict rather than weighing those matters which militated against a guilty verdict to determine whether the jury should have had a reasonable doubt as to the Appellant's guilt.