



## HIGH COURT OF AUSTRALIA

11 October 2023

LANG v THE QUEEN  
[2023] HCA 29

Today, the High Court dismissed an appeal from a decision of the Court of Appeal of the Supreme Court of Queensland. Two grounds were raised on appeal: first, whether the verdict of the jury was unreasonable ("the unreasonable verdict ground"); and, second, whether the opinion evidence of a forensic pathologist, Dr Ong, was inadmissible on the basis that it was not based on Dr Ong's expert knowledge ("the expert evidence ground").

The deceased was 68 years of age when she died from blood loss resulting from stab wounds to her abdomen. The injuries were inflicted in the early hours of 22 October 2015 while she was lying in her bed in her apartment in Brisbane. The appellant and the deceased were the only two people in the apartment at the time of her death. It was accepted at trial in the Supreme Court of Queensland and on appeal that, in the circumstances of the case, there were only two possibilities: either the deceased was murdered by the appellant, or she had died by suicide. The prosecution's case was that the appellant murdered the deceased. In support of that case, the prosecution relied on evidence from Dr Ong, over objection made by the appellant and ruled on by the trial judge in a pre-trial hearing, that the deceased's wounds were more likely inflicted by another person than self-inflicted. The appellant was convicted of the murder of the deceased and sentenced to life imprisonment.

The Court of Appeal unanimously dismissed the appellant's appeal. On the unreasonable verdict ground, the Court of Appeal found that the appellant's guilty verdict was not unreasonable. On the expert evidence ground, the Court of Appeal held that there was no error in the trial judge's ruling that Dr Ong could give the expert opinion evidence at trial. The appellant sought, and was granted, special leave to appeal to the High Court.

On the unreasonable verdict ground, the High Court unanimously found that the verdict of the jury was not unreasonable and, accordingly, dismissed the ground of appeal. The test for whether the verdict of a jury is unreasonable was set out by the Court in *M v The Queen* (1994) 181 CLR 487: the question "which the court must ask itself is whether it thinks that upon the whole of the evidence it was open to the jury to be satisfied beyond reasonable doubt that the accused was guilty". Taken as a whole, the evidence admitted at the appellant's trial was sufficient for the jury to exclude as a reasonable hypothesis that the deceased died by suicide.

On the expert evidence ground, a majority of the Court (Kiefel CJ, Gageler and Jagot JJ, Gordon and Edelman JJ dissenting) held that the admission of Dr Ong's evidence involved no "wrong decision of any question of law" (*Criminal Code* (Qld), s 668E). Dr Ong's opinion – that the deceased's wounds were more likely inflicted by another person than self-inflicted – was substantially founded on his specialised knowledge within the field of forensic pathology. Accordingly, the expert evidence ground was also dismissed.

- *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.*