



HIGH COURT OF AUSTRALIA

Public Information Officer

7 December 2006

RAYMOND DOUGLAS TULLY v THE QUEEN

A two-year delay between alleged sexual offences by Mr Tully against a young girl and the girl's first complaint did not lead to a miscarriage of justice, the High Court of Australia held today.

The girl told her mother in April 2002 that Mr Tully had sexually abused her while he was the mother's partner between January 1999 and May 2000, when the girl was aged between eight and 10. She said he had threatened her with guns and knives if she told. For several months after the mother left Mr Tully he telephoned her with further threats. He owned two handguns, two revolvers and two rifles and slept with a handgun under his pillow. The girl only told her mother after the family left central Queensland and moved to New South Wales. She was able to describe a mole on Mr Tully's penis and tattoos on his buttocks and she kept a diary of the abuse.

Mr Tully, 52, of Gladstone, was tried in the Queensland District Court in 2004 with two counts of rape and four each of indecently dealing with a child under 16 and of permitting himself to be indecently dealt with by a child under 16. As well as evidence about the 10 charges, the girl gave evidence about other sexual incidents, including some elicited during cross-examination. The number of alleged rapes varied between five or six and 30. No objection was raised to this evidence. The jury was unable to reach a verdict on the rape charges and one count of permitting himself to be indecently dealt with. Mr Tully was jailed for three years. He appealed unsuccessfully to the Court of Appeal. He claimed Judge Deborah Richards gave inadequate directions about the uncharged acts and that she should have given a warning in accordance with the 1989 High Court decision of *Longman v The Queen*. This was that it would be dangerous to convict Mr Tully on the girl's evidence alone, because of the disadvantage to his defence caused by the delay, unless it was carefully scrutinised. (In *Longman* the delay was more than 20 years.) Mr Tully alleged that the girl's age, the sexual nature of the complaints, the delay between the offences and complaint, and inconsistencies in her evidence required a *Longman* warning. He appealed to the High Court.

The Court, by a 3-2 majority, dismissed the appeal. The majority held that Mr Tully was not disadvantaged by the two-year delay and the Court of Appeal was not wrong to conclude that a *Longman* warning was not necessary. Evidence about the mole and tattoos, the girl's explanation for her delay in complaining, and Mr Tully's failure to seek a *Longman* warning meant Judge Richards was not bound to give such a warning. In relation to uncharged acts, the majority held that while such evidence is often prejudicial to an accused person, whether characterised as context or background, or as tendency, propensity, relationship or similar-fact evidence, Judge Richards's directions to the jury contained no error leading to a miscarriage of justice due to the way in which the case was conducted. Mr Tully did not object to admission of the evidence, sought to make forensic capital out of its contradictions and possibly excessive claims such as his raping the girl 30 times, and sought no redirection from Judge Richards. However, the Court unanimously held that this was not the appropriate case to resolve questions regarding evidence of uncharged acts.

- *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.*