



HIGH COURT OF AUSTRALIA

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Details of Filing

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Important Information

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**IN THE HIGH COURT OF AUSTRALIA
BRISBANE REGISTRY**

BETWEEN:

DAVID ALAN BRADSHAW

Appellant

and

THE KING

Respondent

APPELLANT'S REPLY

Part I: Certification

1. This submission is in a form suitable for publication on the internet.

Part II: Reply

Contested material facts

2. The respondent appears to assert, for the first time, there is no evidence the appellant had been diagnosed with severe paranoid schizophrenia at the time of his police interview.¹ If that is the respondent's assertion, it is wrong. Evidence that the appellant had been diagnosed with severe paranoid schizophrenia is found in the appellant's statements to that effect in his police interview.²

Ground 1

3. The respondent appears to contend that the Court of Appeal construed s 422(3) of the *Police Powers and Responsibilities Act 2000* (Qld) (**PPRA**) as providing that an interviewing police officer must suspend questioning and comply with s 422(2) if, during questioning, the officer *reasonably suspects* that the person being questioned is a person with impaired capacity.³ That is not the way the Court of Appeal construed

¹ Respondent's submissions, 27 August 2026, [6], [9].

² Transcript of police interview, T6, L49 to T7, L51 (**AFM 10-11**).

³ Respondent's submissions, 27 August 2026, [21]-[27], [42].

s 422(3). The Court of Appeal construed s 422(3) as imposing an obligation on the officer to suspend questioning and comply with s 422(2) if, during questioning, the objective state of affairs rendered it *apparent* that the person being questioned was a person with impaired capacity despite the officer's subjective lack of relevant suspicion.⁴

4. The Court of Appeal's construction is correct. It accords with the modern approach to statutory interpretation recently summarised in *Palmanova Pty Ltd v Commonwealth of Australia*⁵ which requires construction of a statutory provision to be undertaken by a consideration of text and context, and in light of the purpose of the provision discerned from its text and context.
5. If the legislature intended s 422(3) to only apply if the officer reasonably suspected, during questioning, that the person being questioned was a person with impaired capacity, those words, and not the word 'apparent', would have been used to describe the circumstance giving rise to the obligation to suspend questioning and comply with s 422(2).
6. The Court of Appeal's construction of s 422(3) provides both an additional circumstance giving rise to the application of the provision, and a different (and wholly objective) test for the requirement to comply with s 422(2), than is provided for in s 422(1). This construction is consistent with, and best achieves, the stated purpose of Chapter 15, Part 3 of the PPRA, namely to provide safeguards ensuring the rights of and fairness to persons being questioned for indictable offences.

Ground 2

7. The respondent identifies the differences between the issues and evidence in the *Bromley* trial and the appellant's trial and submits that, because of those differences, the precise direction given by the trial judge in *Bromley* was not required in the present case.⁶

⁴ AJ, [30], [32] (**CAB 49**).

⁵ (2025) 99 ALJR 1362 at 1364-1365 [4]-[5]; 424 ALR 768 at 769-770 [4]-[5].

⁶ Respondent's submissions, 27 August 2026, [48]-[58].

8. The appellant does not contend that the precise direction given by the trial judge in *Bromley* was required in the appellant's trial. Rather, to avoid a miscarriage of justice in the present case, a direction of the kind given in *Bromley* was required. In the circumstances of the appellant's trial, the direction should have:
- a. Reminded the jury there was evidence in the trial that the appellant suffered from severe paranoid schizophrenia and was not compliant with his prescribed medication at the time of his police interview;
 - b. Reminded the jury there was no expert evidence about the way or extent to which the disorder was impacting the appellant during the interview;
 - c. Directed the jury to approach the appellant's evidence about his stated purpose in lighting the fire with considerable caution and to scrutinise his evidence with special care, especially bearing in mind that there was no other evidence in the trial about his state of mind in lighting the fire; and
 - d. Directed the jury that they could act on his evidence about his stated purpose in lighting the fire only if, after scrutinising that evidence and bearing in mind the warning just given, they were convinced of its accuracy notwithstanding the absence of evidence, other than his own statements, about his state of mind in lighting the fire.
9. Contrary to the respondent's submissions, such a direction would not have been "meaningless" nor "impractical" and nor would it have "destroyed the foundation of the appellant's case, his claimed schizophrenia".⁷

Dated: 17 September 2026



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⁷ Respondent's submissions, 27 August 2026, [60]-[61].