



## HIGH COURT OF AUSTRALIA

3 December 2025

THE KING v TSALKOS  
[2025] HCA 49

Today, the High Court unanimously allowed an appeal from a judgment of the Court of Appeal of the Supreme Court of Victoria.

Following a trial by jury, the respondent was found guilty of, amongst other things, two charges of kidnapping and two charges of rape with aggravating circumstances of two female complainants, AB and JJ, for conduct which occurred in 1987. After the alleged offending, AB and JJ were taken to the hospital. AB's mother attended at the hospital. At trial, AB's mother gave evidence without objection that she walked into the cubicle at the hospital and saw AB on the bed "very very distressed".

A majority of the Court of Appeal granted the respondent leave to appeal against his conviction and allowed the appeal, finding that a substantial miscarriage of justice was occasioned because the trial judge's directions supposedly invited the jury to use evidence that AB was distressed at the time she complained about the alleged offences to her mother as "independent support" for AB's account in circumstances where it was not open to the jury to find the requisite causal link between the distress and the events complained of.

The High Court unanimously held that the Court of Appeal's reasoning was inconsistent with the decision of this Court in *R v Churchill (a pseudonym)* (2025) 99 ALJR 719; 422 ALR 265. The Court held that AB's mother's evidence that AB was distressed at the time AB complained to her was capable of supporting the occurrence of the alleged offending, and that the trial judge's directions did not invite the jury to treat the evidence as "independent support" for AB's evidence in the sense of being independent evidence corroborative of AB's testimony. The Court further held that a substantial miscarriage of justice was not occasioned by the failure of the trial judge to correct a submission made in the prosecutor's closing address that the evidence of distress was "independent evidence". The Court rejected an additional complaint that a substantial miscarriage of justice was occasioned by the failure of the trial judge to exclude the evidence of distress under s 137 of the *Evidence Act 2008* (Vic).

*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.*