



HIGH COURT OF AUSTRALIA

7 October 2026

THE KING v BECHAUD
[2026] HCA 36

Today, the High Court allowed an appeal from the Court of Appeal of the Supreme Court of Victoria. The appeal concerned the meaning of s 50 of the *Juries Act 2000* (Vic), which empowers a judge in a jury trial to, relevantly, allow the jury to separate after retiring to consider its verdict provided that each juror first takes an oath in the form prescribed in Sch 5 of the *Juries Act* ("the separation oath"). The issue was whether s 50 requires jurors to take the separation oath at a time both temporally proximate and necessarily connected with the first occasion that the jury is permitted to separate while in the course of deliberations of verdict.

On 24 July 2024, the respondent pleaded not guilty to two charges of rape. A jury was empanelled. Before the prosecution had opened its case and before any evidence was called, the trial judge gave preliminary directions and asked the jurors to take the separation oath. Each juror took the oath. The trial proceeded. On 2 August 2024, the jury retired to consider its verdicts. The trial judge then twice permitted the jury to separate in the course of its deliberations. On 6 August 2024, the jury returned a verdict of guilty on one charge.

A majority of the Court of Appeal allowed the respondent's appeal against his conviction. The majority concluded that there was a fatal and fundamental irregularity resulting in a substantial miscarriage of justice in the respondent's trial because the separation oath was not taken by the jurors at a time both temporally proximate and necessarily connected with the first occasion that the jury was permitted to separate while in the course of deliberations of verdict.

The High Court unanimously held that there was no relevant error or irregularity in the trial and, consequently, no substantial miscarriage of justice. The High Court found that nothing in the text, statutory context or purpose of s 50 supports construing the provision so that it requires jurors to take the separation oath shortly before the power to allow separation is first exercised and that neither the legislative history of laws permitting jury separation nor current practice suggests that the precondition in s 50(2), requiring jurors to have taken the separation oath before the trial judge allows the jury to separate, should be read otherwise than in accordance with its terms.

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.