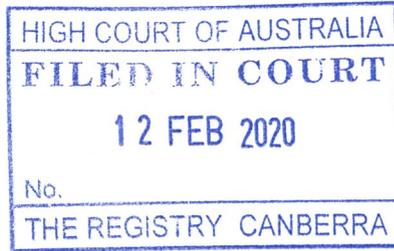


BETWEEN:



EAMONN CHARLES COUGHLAN
Appellant

and

THE QUEEN
Respondent

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RESPONDENT'S OUTLINE OF ORAL SUBMISSIONS

Part I:

1. The respondent certifies that this submission is in a form suitable for publication on the internet.

Part II:

20 **The Issues on Appeal**

2. The single ground of appeal on which special leave was granted is one that challenges the Court of Appeal's application of the principles laid down in *M v The Queen*¹. The ground contends that had the Court of Appeal properly weighed the discrepancies and inadequacies in the evidence led in the trial, the Court of Appeal would have concluded that the jury should have entertained a reasonable doubt as to the appellant's guilt.
3. The principles to be applied by an appellate court in undertaking the task required of it when a verdict is challenged as being unreasonable are well understood, and are not in contest in this appeal. It is in the application of those principles to the evidence in this case which is the focus of this appeal.
- 30 4. In spite of the Court of Appeal's clear articulation of the relevant principles, the appellant contends that the Court misapplied them in the independent examination of the whole of the evidence in its task to determine whether it was open to the jury to be satisfied of the guilt of the appellant.

¹ (1994) 181 CLR 487

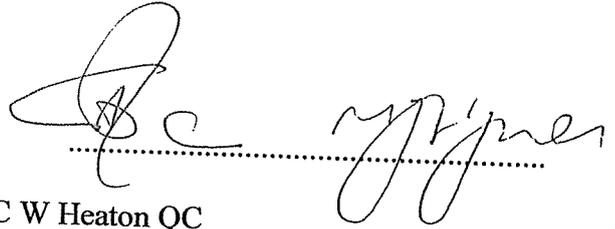
The Respondent's Contentions

5. The Court of Appeal did not err in its disposition of the appeal to that court.
6. The judgment shows a comprehensive and independent assessment of the whole of the evidence and a clear appreciation of the appellant's challenges to the reasonableness of the verdicts. Read as a whole, the Court of Appeal's reasons reveal that it approached the assessment of the evidence, first by examining all of the evidence given in the trial, then weighing its reliability and cogency for itself, both generally, but also particularly in light of the specific challenges made to the various aspects of the evidence consistently with the principles laid down in *M v The Queen*.
- 10 7. The Court of Appeal's detailed analysis of the evidence was the foundation for the Court's conclusions set out at [389] to [398]. The statements of the factual conclusions of the Court, set out in those paragraphs, are based on the whole of the evidence and the detailed analysis which preceded them.
8. The process of reasoning employed by the appellant misapprehends the nature of this circumstantial case and the process of evaluating and assessing the evidence. When considering a circumstantial case, *all of the circumstances* established by the evidence are to be considered and weighed in deciding whether there is an inference consistent with innocence reasonably open on the evidence (*Shepherd v The Queen* (1990) 170 CLR 573 at 579 per Dawson J; *Hillier v The Queen* [2007] 228 CLR 618 at [46] to [52]).
- 20 9. The appellant contends that the evidence was such that the jury, and the Court of Appeal ought to have entertained a reasonable doubt as to the appellant's guilt. To demonstrate, he identifies various pieces of the circumstantial evidence and seeks to cast doubt on them, viewed individually. The appellant challenges the Court of Appeal's reasoning by looking at those individual aspects of the evidence with an hypercritical lens and assembling a collection of complaints by concentrating on the particular parts of the evidence rather than on the whole case, and similarly on the whole of the Court of Appeal's reasons for judgment.
- 30 10. The misapprehension of the task undertaken by the Court of Appeal in its assessment of the whole of the evidence has infected the appellant's process of reasoning in the challenge to the reasonableness of the verdicts.
11. No error has been shown in the conclusion of the Court of Appeal, or the process by which the conclusion was reached, in discharging that Court's function to assess the whole of the evidence to decide whether it was open for the jury to be satisfied of the appellant's guilt.

12. The appeal should be dismissed.

Dated 12 February 2020

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Handwritten signatures of C W Heaton QC and M J Hynes. The signature of C W Heaton QC is on the left, and the signature of M J Hynes is on the right. A horizontal dotted line is drawn across the bottom of the signatures.

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