

Case Note QLD - [R v Arthur \[2026\] QCA 1](#)

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Facts: In *R v Arthur [2026] QCA 1*, the appellant was convicted by a jury in the District Court at Kingaroy of multiple offences arising from a violent home invasion near Nanango on 14 June 2019. He was tried jointly with a co-accused, McDonald. The charges included two counts of burglary while armed in company, one count of common assault, one count of assault occasioning bodily harm, two counts of assault occasioning bodily harm while armed in company, and one count of armed robbery in company. On 28 August 2024, he was sentenced to four years' imprisonment on the armed charges, with concurrent lesser terms on the remaining counts. His parole eligibility date was fixed at 27 May 2026.

The appeal was brought on two grounds: first, that the jury's verdicts were unreasonable or not supported by the evidence; and second, that a miscarriage of justice occurred by reason of the appellant not being tried separately from his co-accused.

**Legal and Procedural Issues:**

1. Unreasonable Verdicts – Inconsistencies in the Evidence

The appellant argued that the jury's verdicts were unreasonable because the evidence was circumstantial and inconsistent. Key aspects of the argument included discrepancies in the number of offenders observed (four or five), descriptions of the offenders which did not match the appellant, and conflicting accounts of the timeline that placed the appellant elsewhere. Importantly, no witnesses identified the appellant as being present at the scene, and the Crown case on identity was entirely circumstantial.

The Court of Appeal applied the established principles from *M v The Queen* (1994) 181 CLR 487, *Pell v The Queen* (2020) 268 CLR 123, and *Dansie v The Queen* (2022) 274 CLR 651. The appellate court is required to undertake its own independent assessment of the evidence, while also acknowledging the jury's unique position to observe witnesses. The Court found that the inconsistencies raised by the appellant, while present, did not render the verdicts unsafe. Four witnesses from the property (Shields, McBryde, Bates and Leeson) gave sworn evidence that five men were involved. Their earlier police statements suggesting four men were attributed to stress, injury, and poor visibility, and their explanations were not inherently improbable.

Further support for the presence of five offenders came from witnesses external to the residence. Parker, his brother (whose s 93B statement was read to the jury), and Bishop all gave evidence placing five men at the scene and departing in a white Nissan Patrol. This vehicle was later linked to the appellant via CCTV footage and a fuel card in his name, which was used at 8:47 pm on the night in question.

The circumstantial evidence pointing to the appellant's involvement was compelling. Gilbert testified that she saw the appellant leave her property in a white Nissan Patrol with weapons matching those later used in the home invasion. The appellant was captured on CCTV using the fuel card to purchase petrol in Nanango at a time close to the offence. McAuley, the appellant's former partner, gave evidence of a conversation in which the appellant discussed a "job" matching the events, mentioned the fuel card, and expressed concern about CCTV footage capturing his face.

The Court found that the timing discrepancies raised by the appellant were insufficient to displace the Crown's case. Although some witnesses estimated the offences occurred around 7:30 pm, evidence from Leeson, emergency call records, and police attendance suggested the offending occurred closer to 9:00 pm, aligning with the appellant's fuel stop and subsequent departure from the area. Accordingly, the Court held that it was open to the jury to convict on each count.

## 2. Refusal to Order Separate Trial – Risk of Prejudice

The appellant also submitted that a miscarriage of justice occurred because he was tried jointly with McDonald, despite significant material being admitted that was inadmissible against him. This included McDonald's record of interview with police, a formal notice of alibi, and McDonald's oral evidence at trial—all of which identified the appellant but exculpated McDonald.

At trial, the judge gave express and repeated directions to the jury that the cases against the two co-accused were to be considered separately. The jury was instructed that McDonald's record of interview, his alibi notice, and his oral testimony could not be used as evidence against the appellant. These directions were not challenged on appeal and were found to be clear, appropriate, and legally accurate. The Court reiterated the longstanding principle that juries are presumed to follow judicial directions unless compelling evidence suggests otherwise (see *Dansie v The Queen* at [8]; *Evans v The Queen* (2007) 235 CLR 521).

The Court also considered whether joinder of the trials was appropriate. It noted that the offences involved multiple offenders acting together in the commission of serious crimes. The evidence admissible against each accused overlapped significantly, and a joint trial promoted judicial efficiency. The Court concluded that the presence of inadmissible evidence relating solely to McDonald did not give rise to unfairness that warranted separate trials, particularly where the jury was adequately instructed and where the Crown case against the appellant stood independently of any inference arising from McDonald's materials.

**Final Orders:** The appeal was dismissed and the convictions upheld. The Court found that the jury's verdicts were not unreasonable and that there was no miscarriage of justice in the decision to proceed with a joint trial.

### **Notes for Practice:**

This decision illustrates that separate trials will not be ordered merely because certain material is inadmissible against a co-accused. Where trial judges give clear and effective jury directions regarding the compartmentalisation of evidence, a joint trial may proceed even where prejudice is alleged. Defence practitioners seeking severance must identify more than the presence of inadmissible material—they must demonstrate that the jury will be unable to apply the judge’s instructions or that the trial cannot be fairly managed.

The case also affirms the sufficiency of circumstantial evidence to support a conviction. Even in the absence of direct identification, a combination of pre-offence conduct (such as arming up), presence near the scene, post-offence conduct, and admissions may establish guilt beyond reasonable doubt. Challenges based on discrepancies in timing or appearance will not succeed unless they significantly undermine the coherence of the prosecution’s case.

Finally, the case reinforces that appellate courts give substantial weight to the jury’s role as fact-finder and will not interfere with a verdict unless the evidence lacks the quality necessary to support a rational conclusion of guilt.

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