



## HIGH COURT OF AUSTRALIA

Public Information Officer

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### JASON CHARLES BUCKLEY v THE QUEEN

Errors were made in assessing whether Mr Buckley should be jailed indefinitely and the Queensland Court of Appeal must re-examine the case in accordance with principles governing the exceptional imposition of indefinite sentences, the High Court of Australia held today.

Mr Buckley, 34, pleaded guilty to five counts of rape, and one count each of burglary with violence, indecent assault and inflicting grievous bodily harm, arising from three violent attacks on women, one in Dalby and two in Toowoomba, between March 1999 and January 2000.

Under Part 10 of the Queensland *Penalties and Sentences Act*, a court may impose an indefinite sentence on an offender convicted of violent offences if a court is satisfied that they are a serious danger to the community. The court must state the prison term that would otherwise be imposed – in Mr Buckley's case, 22 years – which affected reviews of the indefinite sentence and any new term that might be set if the indefinite term is lifted. The court must have regard to whether the nature of the offence is exceptional and to the offender's age, background, character, psychiatric or other reports, the risk of serious harm to the community, and the need to protect the community from such risk. The court must set out detailed reasons for imposing an indefinite sentence.

The Court of Appeal, by majority, refused Mr Buckley's application for leave to appeal. Justice Catherine Holmes in dissent would have granted leave to appeal, as she found that there were three material errors of fact made by Judge Warren Howell. However, she would have come to the same conclusion that an indefinite sentence should be imposed.

The High Court unanimously allowed the appeal. It agreed with Justice Holmes's findings of errors of fact but it held that, more significantly, Judge Howell had failed to apply the principles applicable to a decision as to whether to impose an indefinite sentence. The Court held that Mr Buckley's case was one where Part 10 of the Act could apply but the outcome was not inevitable and the Court of Appeal should have given leave to appeal and exercised its own discretion. The Court remitted the matter to the Court of Appeal for reconsideration.

- *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.*