

***R v SDJ* [2020] QCA 157 (24 July 2020) – Queensland Court of Appeal**

‘Appeal against conviction’ – ‘Child victim’ – ‘Section 93a evidence act statement’ – ‘Stepchild in the family’ – ‘Strangulation’ – ‘Unreasonable verdict’

Charges: Common assault x 1 (DFV offence); Choking in a domestic setting x 1 (DFV offence).

Proceedings: Appeal against conviction.

Facts: The complainant (10 years old) was the male appellant’s stepson. The appellant kicked the complainant and hit him on the side of the face two or three times with an open hand. The appellant then choked the complainant with ‘a neck lock’. The complainant’s mother and a friend of the family witnessed the assault. The appellant gave evidence that he did not assault the complainant.

Ground: Verdict was unreasonable.

Decision and reasoning: *Appeal dismissed*. There were inconsistencies between the child complainant’s s93A Evidence Act statement (taken in a timely way after the incident) and the cross-examination (conducted 16 months after the incident) as during the latter the ‘complainant had little recollection’ of the events. However, this did not preclude the jury from relying on the s 93A statement, especially considering that the complainant’s statement was supported by evidence given by his mother and the family friend, as well as consistent medical evidence. Therefore, it was not unreasonable for the jury to find the appellant guilty.