

***R v Leedie* [2015] QCA 216 (6 November 2015) – Queensland Court of Appeal**

‘Deprivation of liberty’ – ‘Evidence’ – ‘Physical violence and harm’ – ‘Pre-recorded evidence’ – ‘Rape’ – ‘Sexual and reproductive abuse’ – ‘Support person’ – ‘Torture’

Charge/s: Rape, deprivation of liberty, torture.

Appeal Type: Appeal against conviction.

Facts: The appellant was convicted of eight offences including rape, deprivation of liberty and torture. The appellant had been in an ‘off and on’ romantic relationship with the complainant. It is unclear whether at the time of the offences, there was a current or lapsed protection order against the appellant in favour of the complainant or other parties. There was no history of violence in the relationship. The offending arose after the appellant asked the complainant to visit his house to have sex. Consensual sex then occurred. However, following the appellant seeing a message from his brother on the complainant’s phone, he became angry, proceeded to become extremely violent, and raped the complainant multiple times across the night. He did not let her out of the house, and tortured her. The complainant was deemed a ‘special witness’, and gave pre-recorded evidence two days before trial, with her mother present as a support person (pursuant to s 21AK of the *Evidence Act 1977*). Her mother was made aware by the judge during the recording that she was not to have any participation in the proceedings other than as a support person. The mother then made comments to the complainant which reminded her about the details of one of the rape offences. It was accepted at [55] that her mother’s conduct was ‘inappropriate’. However, the trial judge, in response to defence counsel’s application for a mistrial, made detailed warnings to the jury about the caution they needed to apply when considering the complainant’s evidence.

Issue/s: One ground of appeal concerned whether the trial judge erred by failing to discharge the jury after the complainant’s mother suggested to the complainant what she might say in her evidence.

Decision and Reasoning: The appeal was dismissed. The Court held that these directions were sufficient to warn the jury that the reliability of the complainant’s evidence may have been undermined by her mother’s reminder of the details of the appellant’s offending. Furthermore, at trial, the judge offered to order a further pre-recording of the complainant’s evidence, which was declined by the appellant.