

SUPREME COURT OF QUEENSLAND

CITATION: *R v Cronn* [2026] QCA 159

PARTIES: **R**
v
CRONN, Daniel Matthew
(appellant)

FILE NO/S: CA No 201 of 2025
DC No 294 of 2018

DIVISION: Court of Appeal

PROCEEDING: Appeal against Conviction

ORIGINATING COURT: District Court at Cairns – Date of Conviction: 18 October 2018 (Morzone KC DCJ)

DELIVERED ON: Date of Orders: 28 July 2026
Date of Publication of Reasons: 28 August 2026

DELIVERED AT: Brisbane

HEARING DATE: 28 July 2026

JUDGES: Bond JA, Brown JA, Doyle JA

ORDERS: **Date of Orders: 28 July 2026**

- 1. The application for leave to adduce evidence on appeal is allowed.**
- 2. The appeal is allowed.**
- 3. The appellant’s conviction for the offence of dangerous operation of a motor vehicle causing grievous bodily harm is quashed and the Court directs that a judgment and verdict of acquittal be entered instead.**
- 4. Reasons to be produced at a later date.**

CATCHWORDS: APPEAL AND NEW TRIAL – PROCEDURE – QUEENSLAND – POWERS OF COURT – FURTHER EVIDENCE – where the appellant was convicted of dangerous operation of a motor vehicle causing grievous bodily harm – where the success of crown’s case at trial relied primarily on one witness – where fresh evidence demonstrated statements against interest made by that witness – where reasonable doubt in the correctness of that witness’ version arose – where no reasonable jury could reach a finding of guilt

R v BDX [\[2023\] QCA 35](#), cited
R v MFC [\[2026\] QCA 122](#), followed
R v SDT (2022) 11 QR 556; [\[2022\] QCA 159](#), cited

COUNSEL: T A Ryan KC for the appellant
M B Lehane for the respondent

SOLICITORS: Rana Lawyers for the appellant
Director of Public Prosecutions (Queensland) for the respondent

- [1] **THE COURT:** On 19 October 2018 the appellant was convicted after a jury trial in Cairns of the offence of dangerous operation of a motor vehicle causing grievous bodily harm, which offence was alleged to have been committed on 9 June 2017. He was sentenced to 18 months' imprisonment wholly suspended for an operational period of two years.
- [2] In August 2025, the appellant lodged applications for an extension of the time for filing an appeal against conviction and for leave to adduce further evidence on appeal. On 16 September 2025 this Court granted his application for an extension of time for filing his appeal against conviction.
- [3] On 28 July 2026, the application for leave to adduce further evidence and the appeal were heard.
- [4] Leave to adduce further evidence was not opposed by the respondent, who accepted, correctly, that it met the test recently articulated by this Court in *R v MFC*.¹
- [5] The sole ground of appeal advanced by the appellant was that there had been a miscarriage of justice because had the fresh evidence been adduced at the appellant's trial, the jury, acting reasonably, would have acquitted. The appellant advanced brief oral argument in support of the contention that the reception of the fresh evidence justified acquittal rather than merely the ordering of a new trial.
- [6] The respondent supported the appellant's submission that the consequence of the reception of the fresh evidence was that the appeal should be allowed and a verdict of acquittal entered.
- [7] After the conclusion of oral argument, this Court ordered as follows:
- “(1) The application for leave to adduce evidence on appeal is allowed.
 - (2) The appeal is allowed.
 - (3) The appellant's conviction for the offence of dangerous operation of a motor vehicle causing grievous bodily harm is quashed and the Court directs that a judgment and verdict of acquittal be entered instead.
 - (4) Reasons to be produced at a later date.”
- [8] Our reasons for making those orders follow.
- [9] The prosecution case at trial had been that on 9 June 2017 the appellant had ridden his dirt bike on a grass verge of a street; the dirt bike collided with the complainant (Mr Scott Kruger) who had positioned himself on the grass verge facing the oncoming

¹ *R v MFC* [2026] QCA 122 at [48] – [51] per Henry J with whom Bond and Doyle JJA agreed.

bike; and as a result of the impact Mr Kruger had suffered a fracture to his right arm amounting to grievous bodily harm.

- [10] Mr Kruger had given evidence at trial supporting that case. He testified that he had left his house to stand on the grass verge with a view to asking the rider to leave; he observed the appellant turn the corner and ride the dirt bike along the footpath travelling towards him; he did not move while on the grass verge; he was “pretty sure” that he held both his hands up in front of him, signalling to the rider to stop; he stood there waiting for the rider to stop; and that he didn’t remember being hit by the bike but that in the seconds before impact the dirt bike didn’t veer off or change direction but continued accelerating. The last thing he remembered was being in the position of holding his hands up.
- [11] A competing scenario was expressed in some other evidence adduced by the prosecution.
- [12] The prosecution tendered the police recording of an interview with the appellant in which, amongst other things, he had admitted that –
 - (a) he was riding an unregistered dirt bike in that area at the time;
 - (b) at the relevant time his partner, Cassandra Hopper, was riding as a pillion passenger on the back of the bike;
 - (c) he rode down the grass verge and saw the complainant cross the street ahead of him;
 - (d) he was riding along the grass verge at about 30-40 kilometres per hour;
 - (e) he saw the complainant about 15 metres in front of him;
 - (f) he tried to veer right, but the complainant stepped in front of him;
 - (g) he veered left, and the complainant did that again before impact; and
 - (h) he tried to avoid the complainant, but the complainant stepped in front of him.
- [13] The appellant told police that after impact he fell off the bike and lost consciousness. He said that he was told afterwards by Ms Hopper that the complainant had punched him in the head, but he could not remember that.
- [14] Ms Hopper was called in the prosecution case. She testified that the complainant appeared to be angry that the dirt bike was being ridden in the street. As she and the appellant were coming down the grass verge, she observed the appellant swerve out of the complainant’s way. The complainant then stepped back in front of the bike and that was repeated before the complainant punched the appellant in the forehead as the bike went past where the complainant was standing.
- [15] The appellant neither gave nor called evidence at the trial.
- [16] The outcome of the trial depended on the resolution of the conflict between the version of events presented by Mr Kruger and the alternative scenario deriving from the appellant’s police interview and supported by Ms Hopper’s evidence. One may infer from the verdict that the jury resolved that conflict in favour of Mr Kruger and that they were not persuaded that the police interview or Ms Hopper’s evidence should lead to them having any reasonable doubt as to the correctness of Mr Kruger’s version of events.

- [17] The fresh evidence which the appellant placed before this Court strongly supported the alternative scenario:
- (a) There was evidence from the complainant's former partner, Angela Hammacott, that on the day of the incident and afterwards, the complainant had made statements against interest to her (confirmed in text messages exchanged between them on the evening of 9 June 2017) that he had deliberately swung his arm at the bike rider. The evidence suggested he had used the language of having "clotheslined" or "coathanged" the rider. Police had not obtained a witness statement from Ms Hammacott for the purposes of the criminal trial. The complainant and Ms Hammacott separated in April 2019. She was first contacted by the solicitors acting for the Nominal Defendant in December 2023 and provided them with a signed statement dated 2 February 2024.
 - (b) There was evidence from Dr Rigo Van Meer, psychiatrist: Dr Van Meer had examined the complainant on 12 March 2019 at the Cairns Adult Mental Health Service. The complainant did not consult Dr Van Meer until after the appellant's trial. He told the doctor, in effect, that his own conduct caused his injury.
 - (c) There was evidence of the clinical notes of two other persons; Ms Jannemieke Hanhart, a social worker, and Mr Thomas Braun, a registered nurse who worked at the Cairns Adult Mental Health Service. They had each spoken to the complainant in February and March 2019. The complainant had made statements against interest to each of them to the effect that he had punched or "clotheslined" the appellant and had caused his own injury.
 - (d) There was evidence of a pleading filed on the complainant's behalf at the civil trial concerning his injury and of the evidence which the complainant had given at that trial. His sworn testimony at the civil trial describing his actions immediately before the impact occurred was materially inconsistent with his sworn evidence given at the appellant's trial. Further, the pleading contained assertions which contradicted his sworn testimony at the appellant's trial (and his evidence at the civil trial) about the movement of his right arm immediately before the impact occurred.
- [18] In our view the parties were right to contend that the fresh evidence admitted on appeal precluded the possibility that a properly instructed jury could reach a finding that guilt had been proved beyond reasonable doubt. The fresh evidence very strongly supported a version of events akin to that presented at trial by Ms Hopper in which the complainant had been the author of his own injury by stepping into the way of the bike and using his arm to "coathang" or "clothesline" the appellant. The difference between her suggestion that there was a punch and the evidence which suggested that the complainant used his arm to "coathang" or "clothesline" the appellant would be irrelevant. At the very least the scenario created by the further evidence had sufficient strength inevitably to induce a reasonable doubt in the correctness of the complainant's contrary version and to preclude a finding of guilt.²
- [19] In those circumstances, the parties were right to join in the submission that the conviction should be quashed and a judgment and verdict of acquittal should be entered instead. Accordingly, the orders made by the Court were appropriate.

² Cf *R v SDT* [2022] QCA 159 at [38] and *R v BDX* [2023] QCA 35 at [1], [10], [49].