[2002] QCA 126

COURT OF APPEAL

McMURDO P
DAVIES JA
HELMAN J

CA No 16 of 2002

THE QUEEN

v.

RAYMOND KEITH LLOYD Appellant

BRISBANE

..DATE 03/04/2002

JUDGMENT

THE PRESIDENT: The appellant was convicted on 7 December 2001 of one offence of indecently dealing with a child under 12. He appeals against that conviction.

The appellant, who appears for himself, states as his grounds of appeal:

> "The two girls said two different statements. The aunt did not tell the police at the time of interview the mother wrote on the note after they interviewed the girls."

He has expanded on those grounds in a written letter which is before the Court and in his oral submissions.

The complainant was nine years old at the time of the offence in January 2000. The complainant's cousin was eight years old. The appellant knew the cousin's mother and through her met her niece, the complainant, and the complainant's mother.

The complainant told her mother on 27 January 2000 about an incident between the appellant, the cousin and her. The complainant's mother spoke to her sister the next day and she in turn spoke separately to the complainant and her cousin.

The cousin was interviewed by police on 2 February 2000. The complainant was interviewed on 13 February 2000. Both interviews were tendered at trial under s.93A Evidence Act 1977 (Qld).

The complainant's interview was essentially her evidence-in-chief. She said that the appellant took her for a drive in his car to get petrol but instead he drove her to a bush area. He removed her top and took a polaroid photograph of her. He then pulled her underpants to one side and took a photograph of her exposed genitals. It was this conduct which constituted the offence of indecent dealing. He then gave her a purse with money in it and told her to say she found it.

The complainant also described an earlier incident when she and her cousin became wet after playing with a hose. They went with the appellant in his car to buy some lollies. They were each wearing a crop top and knickers and wrapped in a towel. The appellant asked them to remove the towels.

The complainant's mother gave evidence that a few days before 27 January 2000 the appellant took the complainant for a drive in his car. They were away for an hour and she was concerned. When they returned the complainant had a purse with money and both the complainant and the appellant said she found it.

The cousin in her interview with police, which was also the basis of her evidence-in-chief, said she saw the photograph of the complainant with her underpants pulled to one side. It was fixed to the front of the appellant's car with blu-tack, but the next day it was gone. She described the earlier incident involving the towels. She said the

appellant asked them to promise to remove the towels if he promised to let them travel in the back of his station wagon. The girls declined.

On 29 January 2000 police found the polaroid camera at the appellant's house. The indecent photograph was never found.

In cross-examination, the mother of the cousin said that the appellant arrived at her home after she had spoken to the two girls later that day. She told him that there were some allegations made against him. He leaned over the bar and lowered his head and would not look at them. He did not say anything at all. The complainant's mother became angry and swore at him. The appellant said, "Well, where's your - where's the proof, where's the photos?" He began to leave. The complainant's mother was very upset and was yelling at him. Her boyfriend came from under the house and yelled and swore at him and called him a paedophile. He hit the appellant for a couple of minutes and was "pretty aggressive". The cousin's mother rang 000 and the appellant waited until the police arrived.

The appellant did not give evidence although, in cross-examination of the complainant's mother, it emerged that he told her and her boyfriend, "I didn't do anything. Just leave me alone." Her boyfriend then punched the appellant in the face several times and told him not to move. Police arrived shortly afterwards.

The appellant's first complaint is that during the interview with police the complainant said that her cousin had not seen the indecent photograph, whilst her cousin told the police she saw the photograph in the appellant's car. The appellant relies on this "inconsistency". It is not an inconsistency because the complainant would not necessarily know whether or not the cousin had seen the photograph.

The minor inconsistencies emphasised by the appellant in his oral and written submissions were not necessarily surprising considering the age of the child and the fact that the trial was held almost two years after the incident. Each of the claimed inconsistencies or implausibilities were fully canvassed by defence counsel before the jury. They are not of such importance as to have required the jury to doubt the child's credibility.

The appellant also emphasises that the cousin's mother gave evidence that her daughter told her that she saw the photograph of the complainant. She did not put this in her statement to police. She said in cross-examination that there were a couple of things that were probably not in the statement that she could have included. This matter was fully canvassed at trial. It too is not of such significance as to throw doubt on the jury's verdict.

The appellant raises concerns about the notation made by the complainant's mother on the notes made by the cousin's mother. The cousin's mother made some notes of the

conversation she had with both girls. She stopped making notes because she became upset and decided to refer the matter to the police. The complainant's mother added to those notes later that day. The additions were "Had photos of the complainant." The letter "d" in the word "had" was changed to an "s" so that that notation read, "Has photos of the complainant."

This matter again was canvassed at the trial, and is of no particular significance. Either alone or combined with the other matters raised by the appellant in his oral and written submissions, it does not throw doubt on the jury's verdict.

There are no complaints as to the Judge's directions to the jury. I note that no redirections were requested at the trial. There is nothing in any of the points raised by the appellant.

I would dismiss the appeal.

DAVIES JA: I agree.

HELMAN J: I agree.

THE PRESIDENT: The order is the appeal is dismissed.
