

**COURT OF APPEAL**

**HOLMES JA  
MUIR JA  
DAUBNEY J**

**CA No 153 of 2012  
DC No 481 of 2011**

**THE QUEEN**

**v**

**ARMSTRONG, Barry John**

**Appellant**

**BRISBANE**

**DATE 26/10/2012**

**JUDGMENT**

**HOLMES JA:** The appellant seeks to appeal his conviction on one count of stalking, although he entered a plea of guilty to it. His appeal grounds contained nothing to explain why there was any miscarriage of justice in his entering a plea of guilty, nor did his written outline contain anything to that effect. Both instead were an attempt at rehashing arguments previously made about police conduct and whether the complainant's signature on her statement was indeed hers.

Here, from the Bar table, on the subject of why he entered a plea of guilty, he says that the barrister briefed to appear for the purpose of examining the complainant as a special witnesses expressed his view that he was likely to be found guilty of the offence, that he could face a prison sentence and that if he pleaded guilty he could expect probation and that no conviction would be recorded. In fact, those last were the outcome.

The appellant also suggested that the barrister told him that if he pleaded guilty, it was not really a plea of guilty, but a plea of guilty no contest. I find that a little hard to accept in an Australian context, especially when the appellant's actual words in Court were "I plead guilty" with no reference to this suggestion that it was on a no contest basis.

The appellant also says that he was not of sound mind and that is to be deduced from the fact that he had evidence that the signature on the complaint was not the complainant's. Now that argument, for what it was worth, and it is not evident to me that it was worth anything at all, had already been put to the court. The appellant knew of that position but, nonetheless, chose to plead guilty.

There has been nothing shown before us today - and I emphasise that there was, in any event, nothing put on affidavit; this was all from the Bar table - which would warrant the setting aside of a plea guilty made in clear terms.

I am satisfied there has been no miscarriage of justice and I would dismiss this appeal.

**MUIR JA:** I agree.

**DAUBNEY J:** I also agree.

**HOLMES JA:** The appeal is dismissed.