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George Pell high court appeal: cardinal granted final challenge against child sexual abuse conviction

Full bench of seven judges will decide on Cardinal Pell's appeal, likely to be heard in 2020

. What has happened with Cardinal George Pell's appeal against child sex abuse conviction?

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Cardinal George Pell will have a final chance to overturn his conviction on historical child sexual abuse offences after the high court in Canberra agreed to hear appeal arguments in a special full court sitting.

A date for the appeal hearing is yet to be set but it is likely to be early in 2020, by the full bench of seven judges. Led by the high-profile silk Bret Walker SC, Pell's legal team will argue that the majority of judges in Victoria's court of appeal erred by finding in August that jurors were not unreasonable to believe the testimony of Pell's victim.

On Wednesday Justice Michelle Gordon announced that she and Justice James Edelman had decided to refer Pell's application for special leave to appeal to the full court "for argument as on appeal".

The decision sets up a special full court hearing that will consider both the application for leave to appeal and Pell's substantive case together. It means there is a chance the court may not grant Pell's special leave application.

Dr Vivian Waller, a lawyer who has represented Pell's victim, said her client was respectful of the court process. "I did speak to him this morning and he really is just focusing on his self-care... he really is focused on his own journey of recovery," she told the ABC on Wednesday afternoon.

"We understand this is a criminal case and everyone has a right to a fair trial. The appeals process is an important check and balance on the process. But we do understand the anguish a lot of people in the community are feeling."

Chrissie Foster, whose daughters were abused by the pedophile priest Kevin O'Donnell and who detailed a lack of support from Pell when she reported the offending to the church, said she was "devastated" by the court's decision.

"The more I think about it the more devastated I feel about it," she said. "It's so hard to get a conviction of this crime against children. This case got that conviction. Now it's going out of Victoria to the high court to be rehashed over."

"George has had the best of everything, the best defence money can buy, the best county court judge, and three top minds in the appellate court judges who heard the first appeal. And it feels now it's all back to square one. It really is upsetting. What do we have to do to have this conviction stick?"

The Archbishop of Sydney, Anthony Fisher, said he hoped the appeal would be heard as soon as possible.

"The church will continue to offer pastoral support to the Cardinal while he remains in prison awaiting the hearing of this appeal, and for all others affected by today's outcome," he said.

"The Cardinal has always maintained his innocence and continues to do so, and the divided judgment of the court of appeal reflects the divided opinion amongst jurors, legal commentators and within our community."

Pell's appeal application said: "There did remain a reasonable doubt as to the existence of any opportunity for the offending to have occurred." In a criminal trial it is up to prosecutors to establish proof, not the defendant to prove innocence, and the filing says the Victorian appellate judges wrongfully reversed this onus of proof.

In their submission to the high court, prosecutors said Pell's appeal should not be heard because it raised no question of law of public importance. Rather, they said the appeal invited the court to apply established principles to the facts of the case which had already been "carefully and thoroughly" explored by jurors and the majority of the court of appeal. But the high court disagreed, ordering that the case be heard.

The decision was delivered by Gordon, who along with Edelman agreed to take the case. While an appeal is usually decided by a full bench, the decision as to whether an appeal hearing is granted is usually made by one or two judges.

The legal parties were not present when high court delivered its decision on Wednesday morning. While an oral hearing sometimes accompanies an appeal application, in this case the court decided to hear the appeal based on the papers filed to the court alone.

It will be Pell's last resort of appeal, with any decision of the high court final and applicable to all other Australian courts. Each justice will make their own decision on the appeal, and is likely to provide their own written reasons which will be delivered at a date set after the appeal hearing concludes. Unlike a jury, who in most cases need to reach unanimous decision, cases before the high court are decided on a majority.

A spokeswoman for the cardinal declined to comment on Wednesday's decision, as the matter was still before the courts. Archbishop Mark Coleridge, the president of the Australian Catholic Bishops Conference, said Pell had exercised the right that all Australians hold to appeal his conviction to the high court, and the court had determined that the appeal "warrants its consideration".

"This will prolong what has been a lengthy and difficult process, but we can only hope that the appeal will be heard as soon as reasonably possible and that the high court's judgement will bring clarity and a resolution for all," Coleridge said.

Pell, 78, is now in Melbourne assessment prison, where he is serving a six-year prison sentence. He will be eligible for parole in 2022, once he has served a period of three years and eight months.

In December a jury returned a unanimous guilty verdict on five charges after less than four days of deliberation. He was found guilty of sexually abusing two 13-year-old choirboys at St Patrick's Cathedral when he was the archbishop of Melbourne in 1996, including oral raping one of them. He sexually assaulted one of the boys again a few weeks later, groping his genitals in a corridor of the same church.

By the time the complainant spoke to police in June 2015, the other victim had died from an accidental heroin overdose at the age of 30.

In Australia, Blue Knot Foundation can be contacted on 1300 657 380 or at www.blueknot.org.au; Bravehearts Inc, which offers counselling and support for survivors and child protection advocacy, can be contacted on 1800 272 831; 1800 Respect is a 24-hour telephone and online crisis support service available on 1800 737 732 or at www.1800respect.org.au; for 24-hour crisis support and suicide prevention call Lifeline on 13 11 14 or visit www.lifeline.org.au.

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