

# Cardinal Pell's lawyers argue for appeal in Australia's High Court

Cardinal George Pell's last chance to have his conviction for the 1996 sexual assault of two 13-year-old choirboys overturned in Australia's High Court continued into a second day, as he applies for "leave to appeal."

At the end of March 11, the seven judges did not give their decision.

If they consider the appeal, they will do so immediately, but legal experts said the full bench of the High Court – all seven judges, led by Chief Justice Susan Kiefel – had previously treated criminal appeals this way: hearing arguments, making a decision on giving special leave to appeal.

The first of two days set aside to consider and then perhaps hear the appeal was devoted largely to Cardinal Pell's counsel Bret Walker, putting his case that the original guilty should be set aside and Pell set free.

Pell's lawyers are appealing on two grounds.

The first is that the Court of Appeal majority – Chief Justice Ann Ferguson and President Chris Maxwell – made an error in requiring Pell to prove the offending was "impossible" in order to raise reasonable doubt. Walker said this reversed the onus of proof on Cardinal Pell to prove his innocence as distinct from simple doubt of his guilt.

Justice Virginia Bell, the judge with the most experience in criminal law, raised the High Court's concerns with the Appeal Court judges viewing video evidence from witnesses, instead of relying on a written transcript.

The second leg of Cardinal Pell's appeal is that the majority in the Appeal Court made an error in concluding the guilty verdicts were not unreasonable. The second half of the day, Walker focused on Cardinal Pell's habit, as archbishop of Melbourne when the offences occurred, of greeting parishioners on the front steps of St. Patrick's Cathedral after Sunday Mass. The victim's testimony was that the offences occurred in the church's sacristy after Mass. The cardinal's lawyers contend he had no opportunity to commit the offences in the sacristy.

If leave is given, the judges may ask further questions of counsel then retire for a period, often several months, before delivering written reasons for their verdict. There is also a chance they could send the case back to the Appeal Court of the Victoria Supreme Court, which decided in August to uphold the original December 2018 guilty verdict.

In March 2019, Cardinal Pell was handed a six-year prison sentence, with no

parole for three years and eight months. He is incarcerated in Barwon Prison, near the provincial Victorian city of Geelong, and is being held in virtual solitary confinement – typical for child sex offenders for their own protection. He does not have any access to court proceedings.