

Judge gaffe opens door

Appeals over jury error

RAPISTS and drug dealers could see their convictions quashed because at least two judges have been ignoring an ancient legal precedent governing jury selection.

One man convicted of five counts of rape has already won a new trial because prospective jurors were not "paraded" in front of where he stood in the dock of the County Court.

The Court of Appeal found a practice adopted by Judge Felicity Hampel, in which prospective jurors walk to the jury box without passing in front of the dock, hadn't allowed the man to see their faces properly.

This resulted in a "substantial miscarriage of justice", because it denied him the chance to properly take advantage of a right to reject those he didn't like the look of. An accused has a right to six challenges without giving a reason.

"Judges should follow a practice that provides the accused with a reasonable opportunity to see the prospective juror's face," Justices Robert Redlich and Stephen McLeish said in their majority ruling.

"The practice followed by the trial judge in the present

KEITH MOOR

case ... involved a significant and unexplained departure from the long-accepted process followed in criminal trials in this state," they said.

December's ruling said the judge had evidently followed this practice for some time.

Lawyers for others convicted before Judge Hampel are now believed to be considering appeals on the same grounds.

The *Herald Sun* has been told at least one other County Court judge has also chosen not to "parade" jurors in front of accused persons, some of whom were then convicted.

The *Herald Sun* is aware of other judges who are privately critical of those actions, which they believe will result in more successful appeals by those convicted of crimes including rape and drug trafficking.

County Court spokesman Paul Conroy declined to comment on whether other judges had departed from the practice of "parading" prospective jurors. But he said that all judges were bound by decisions of the Court of Appeal.

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Magdaline is on her way home after life-changing surgery.
Picture: TONY GOUGH



AN APPETITE FOR LIFE RESTORED

WHEN Magdaline was born, her parents were told she wouldn't live past age nine.

Now 12, she has a new lease on life thanks to life-saving surgery on two continents, and has a future as bright as her smile.

Born in Papua New Guinea with congenital defects to her heart, spine and lower abdomen, she had a colostomy in her first week of life. But PNG cardiologists could not repair her heart.

GRANT MCARTHUR

The Victorian-based Children First Foundation convinced the Frontier Lifeline Hospital in Chennai, India, to take on the high-risk operation in March 2012. Last September, Chris Kimber and fellow surgeons at Monash Children's Hospital operated to rebuild her rectum and lower abdomen.

And yesterday, Magdaline was able to fly home.

"I couldn't run, I couldn't jump — it was hard to play with other kids," she said. "I didn't want to be the way I was any more. Now, it is fine — I can run, jump, go riding. They fixed my tummy."

In two years, Magdaline will return to be assessed for surgery to correct her spinal condition.

TO HELP MORE CHILDREN LIKE MAGDALINE, VISIT: childrenfirstfoundation.org.au/donate

Foreign bid for brands

KARINA BARRYMORE

AUSTRALIAN clothing and homeware brands Bonds, Berlei, Jocks and Sheridan are again heading for foreign ownership after a \$1.1 billion takeover offer by global T-shirt and underwear rival HanesBrands.

Pacific Brands shareholders are expected to accept the \$1.15-a-share takeover by the US company, on the board's recommendation yesterday.

The 128-year-old Australian company was purchased by two foreign investment funds in 2003 before the owners repackaged it and floated it on the Australian and New Zealand stock exchanges in 2005.

Since then its fortunes have been mixed and it has undergone significant restructuring including outsourcing its manufacturing to China and offloading its Hard Yakka and Volley shoes businesses.

It has only just returned to profit in the past six months after four years of losses.

PacBrands chairman Peter Bruce said yesterday the takeover by HanesBrands, which produces clothing brands Hanes, Champion and Wonderbra, is not expected to see staff cuts or changes to existing Australian operations.

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Burglary spree arrest

POLICE have arrested seven men over aggravated burglaries in Ormond and Brighton East on the weekend.

Investigators from Taskforce Tense, which is probing the activities of the notorious Apex gang and others, using similar methods, arrested the last of the group yesterday.

Victims of Saturday morning's violence, including Chinese nationals, were attacked in their own homes.

Detectives executed a search warrant yesterday in Brunswick St, Fitzroy, and allegedly found cash, Chinese currency and other suspected stolen goods.

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