

No case to answer in criminal law

When could there be a no case to answer?

Whenever a person is charged with an offence, pleads not guilty and appears on a trial for that offence, it is for the Prosecution to provide evidence that all elements of the offence have been committed as well as to prove that the Defendant is the person who committed them. Therefore, the burden of proof lies with them.

In the course of a trial, the Prosecution are the first ones to lay their evidence against the Defendant in essence of upholding the fundamental principle that everyone is innocent until proven guilty. Up to that point the Defence have had the opportunity to put to proof such evidence and explore any inconsistencies. It is on the close of the Prosecution's case that the Defence gets the opportunity to put forward their case and their version of events.

However, in certain circumstances there may be no need for the Defence call evidence in particular when the evidence for the Prosecution is insufficient. In those circumstances, an application can be made to the judge to withdraw a particular part or the full case from the jury.

It is important to note that such application could in theory be made before the close of the Prosecution case where both parties agree to that outcome. However, the correct time for making an application is when the Prosecution have closed their case.

On a rare number of occasions, the Court of Appeal has further recognised the possibility of a no case to answer application at the end of the case for the Defence.

How the application is made?

A judge can consider application of the no case to answer upon submissions by the Defence. Whenever an application is put forward, it should be heard by the judge in absence of the jury in order not to prejudice or influence them. If an application has been rejected by the judge, then no mention of such taking place is to be made in front of the jury.

Therefore, insufficient evidence submissions operate on a voir dire basis, in the absence of the jury. Once the members of the jury have left the courtroom, the Defence Counsel makes a submission following which the Prosecution Counsel is given the opportunity to reply.

What are the test and the outcome?

The test is for the judge to be satisfied that on the basis of the Prosecution's evidence taken at its highest, no jury, if properly directed, could convict. If the judge is satisfied that such is the case, then he has the power to withdraw the case from the jury and direct the jury to acquit. If the application is only based on a part of the trial against the Defendant, for example relating only to one count of the indictment, the judge may withdraw that count from the consideration of the jury.

On the other hand, if the judge finds that the Prosecution evidence is sufficient, then the case is left for the consideration of the jury and the trial continues in the ordinary way with the evidence for the Defence.

In the process of determination such application, the judge should make an assessment of the evidence as a whole and not simply focus on the credibility of the individual witnesses or of any evidential inconsistencies between the witnesses. This could be seen as an effort to try and provide powers to the judge, whilst at the same time not allowing him to usurp the function of the jury.

It is clear that where the Prosecution evidence fails to address particular element of the offence at all, then no conviction could possibly be reached and the judge should withdraw the case from the jury. It is nevertheless more difficult where there is some evidence to show that the accused committed the offence, but for one reason or another it seems unconvincing. The general principle there is that it is a

matter for the jury to weigh the evidence and reach a verdict assessing the witnesses' credibility and not the judge. Therefore, depending on the individual facts of the case, on some occasions the application might be successful, however, on the majority of cases if there is a possibility for the jury, on proper direction by the judge, to convict, the matter will be left to them.

What is the procedure on successful application?

If a successful application has been made after the judge had announced his decision the jury are brought back in the courtroom. The judge then explains briefly to the jury members the decision he has reached. He then asks them to appoint a foreman to speak for them and the court clerk takes from the foreman on each count on the indictment a verdict of not guilty upon judge's direction.

If a decision has been reached in respect to one or more counts but not the full case, the judge explains to the jury that they should ignore the counts for which there is no case for the rest of the trial and at the end of such they will be directed to enter a not guilty verdict on those upon the judge's direction.

References:

[online] [dostęp 14.05.2019] dostępne w Internecie:

<http://www.inbrief.co.uk/court-proceedings/no-case-to-answer/>

<http://legal-dictionary.thefreedictionary.com>

Exercises

I. Match the terms with the definitions:

1 to plead not guilty	A skazać na podstawie dowodów
2 to explore inconsistencies	B wycofać część lub całą sprawę
3 the burden of proof	C zamknięcie sprawy ze strony oskarżenia
4 to put forward the case	D na podstawie mówienia prawdy
5 to withdraw part of the full case	E badać niezgodności
6 to call evidence	F uprzedzić lub wpłynąć na ławę przysięgłych
7 the close of the Prosecutor's case	G dokonać oceny
8 to submit application	H nie przyznać się do winy
9 to prejudice or influence the jury	I przedstawić swoją stronę sprawy
10 to direct the jury to acquit the accused	J złożyć wniosek
11 to convict on evidence	K ciężar udowodnienia
12 relating to the indictment	L przywołać dowody
13 make an assessment	M odnosić się do aktu oskarżenia
14 a voire dire basis	N pouczyć ławę przysięgłych, aby uniewinniła oskarżonego

II. Transform the sentences into Passive Voice:

- The judge should evaluate evidence.
- The jury could not reach conviction.
- The Defence Counsel makes a submission of 'there is no case to answer'.
- The jury has rejected the application.
- The Prosecution closed the case yesterday.
- The judge will consider the submission.
- During the trial the judge often withdraws a particular part of the case from the jury.
- The judge is not to mention the application in front of the jury.
- The Prosecutor will present the evidence in the case.
- The jury has acquitted two accused.

III. Complete the sentences with the words: withdrawn, submits, credibility, foreman, uphold, usurp, circumstances, outcome, inconsistent

- The judge will not focus on the _____ of witnesses.

2. The jury assesses evidential _____ between the witnesses.
3. The judge is not allowed to _____ the function of the jury.
4. The case should be _____ from the jury.
5. In certain _____ the Defence does not need to call evidence.
6. The Defence _____ the application of no case to answer to the judge.
7. Both parties can agree to the _____ that it is made before the close of the case.
8. The prosecution presents evidence against the accused to _____ the principle that everyone is innocent until proven guilty.
9. The court clerk takes from the _____ of the jury a verdict.

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