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<i>Judgment: approved by the court for handing down (subject to editorial corrections)*</i>	ICOS No:	24/51212/A01
	Delivered:	23/06/2026

IN HIS MAJESTY’S COURT OF APPEAL IN NORTHERN IRELAND

THE KING

v

WILLIAM PATTERSON

**Mr Richard McConkey KC with Mr Stuart Magee (Mr Connell Kelly & Company) for the
Applicant**
**Mr Sam Magee KC with Ms Bobbie-Leigh Herdman (instructed by the Public Prosecution
Service) for the Crown**

Before: Keegan LCJ, McAlinden J and Huddleston J

KEEGAN LCJ (*delivering the judgment of the court ex-tempore*)

Introduction

[1] The applicant renews an application for leave to appeal against conviction, following a trial on the facts, leave having been refused by the single judge, Mr Justice O’Hara, in a decision of 23 March 2026.

Background

[2] In very broad terms the background to the case is that the applicant had been in a relationship with the complainant’s mother for some years. On the prosecution case, while the relationship with the mother was ongoing, he indecently assaulted the complainant. As a result of this he faced eight counts of indecent assault covering a period from 2002 when the complainant was 14 years old to 2007 when she was 19 years old. The victim statement is in our papers dated 24 June 2024. In that the victim says that she felt seen, heard and validated by the finding of the jury.

[3] The applicant was not fit to stand trial because of a massive stroke which he had suffered. We have in our papers various medical reports which set out the sequelae from that both in terms of physical and mental abilities. As a result of the

stroke the trial proceeded on the basis that the jury had only to decide whether it was satisfied beyond reasonable doubt that he had done the acts which he was accused of, in other words, a trial on the facts.

[4] On 13 June 2025, the jury decided that the applicant had committed the acts complained of. Thereafter, on 1 July 2025 the judge, His Honour Judge Gilpin imposed an absolute discharge on the applicant, that was in accordance with the legislation governing this type of situation.

This appeal

[5] We have looked carefully at the notice of appeal and although five grounds are raised in that there is only one issue. The central issue in this application concerns whether the remarks made during previously instructed prosecuting counsel's closing address and the trial judge's subsequent refusal to discharge the jury render the trial unfair and the finding of the jury unsafe. The focus is upon words used by prosecuting counsel to the effect that that the only conclusion that the jury could reach, if they "were courageous and showed fortitude", was that the applicant had committed the alleged offences and counsel further remarked that in respect of their finding or verdict, the prosecution would "hold the jury to their oath."

[6] The application advanced by Mr McConkey KC maintains that there was prejudice occasioned by the words used by prosecuting counsel and that the judge, should have discharged the jury.

[7] In assessing this argument, it is important to consider what happened at the trial as follows. The judge delivered his charge to the jury in two parts. After the first stage, the prosecutor gave his closing speech in which the impugned language is found. Then Mr McConkey for the defence objected in the absence of the jury to the words used by the prosecutor and he referred the court to the case of *R v Anthony West* [2009] NICA 53, which is a decision of this court in which he was counsel. He maintained that the prejudice occasioned by the words used in this case by prosecuting counsel could not be rectified.

[8] The judge considered the submissions made and declined to discharge the jury. However, importantly, the judge directed the prosecutor to correct and withdraw the comments which he had made and the prosecutor did that. The next step was for Mr McConkey to close the case on behalf of the applicant which he did. The judge went through the evidence in the second stage of his speech to the jury.

[9] Before us McConkey reiterates the fact that there is no challenge to what the judge said to the jury. That is unsurprising as the judge clearly explained the position of the applicant who was unable to give evidence because of his stroke and was unable because of the delay between the events to make a further case to the jury. The judge also directed the jury away from emotion and sympathy.

[10] This application focuses on not how the judge dealt with these issues but the judge's failure on application to discharge the jury and this is a question as to whether the prejudice caused by the inappropriate language was remedied.

Consideration

[11] The case of *West* set out a pathway whenever issues like this arise. Mr McConkey rightly points out this case is slightly different because it was a trial on the facts, but nonetheless, *West* highlights the need to remedy any issues that arise of this nature. The applicant makes the case that the difficulty in this case is compounded by the fact that in this case, the defendant was not able to appear in court and could not give evidence in his own defence. Mr McConkey maintains that circumstance requires a further cautious approach, both from prosecuting counsel, from the judge and from the court.

[12] We have noted what the prosecution have said in writing that the impugned remarks did not render, in the prosecution's submissions, the findings of the jury unsafe on the basis that the remarks cannot be viewed in isolation. The prosecution relies on the closing speech as a whole and the conduct of the trial. The prosecution relies on *West* and submits the judge adopted an approach consistent with *West*. Counsel have also referred us to some recent decisions of *R v Gonaz* [1999] All ER(D) 674 and *R v Ramdhanie* [2005] UKPC 47 and *R v Johal* [2018] EWCA Crim 1256 which are all more recent decisions that we have found of some use.

[13] In particular, a theme from those cases mentioned above, and another case from the Court of Appeal of *Glasgow*, is that where impropriety arises significant weight should be placed on the trial judge's discretion in managing the jury as the judge is best positioned to evaluate its effect and to take appropriate remedial action to mitigate any prejudice. The judge's duty is to consider the overall fairness of the trial as a whole rather than focusing solely on the problematic elements of any speech in isolation. Even in what was regarded as an extreme case, the Court of Appeal in *Johal* held that the trial judge's intervention coupled with the defence's opportunity to address the issue in their own closing speeches ensured that the findings remained safe.

[14] Applying the relevant authorities we have carefully considered how this case proceeded. It is a model in terms of application of *West* where the correct path was not followed. This case is distinguishable. There is no suggestion that the prosecutor misled the jury in any way by an inaccurate presentation of the facts, the objection to some words he used was rightly made by Mr McConkey but, equally, the judge was assiduous in dealing with it both through the imposition that he put on prosecuting counsel before the jury and his own directions.

Conclusion

[15] Thus, we are satisfied that that while the impugned remarks of the prosecutor were inappropriate, they were corrected and, in that circumstance, they were not such to render the findings unsafe. We apply the authorities of *West* and *Johal*, in particular, which illustrate the point that the court assesses this type of issue mindful of the full context. Any prejudice in this case was remedied. Defence counsel was fully afforded the opportunity to respond to the remarks and correct any unfair impression. Furthermore, the trial judge's directions which are not impugned regarding withdrawal and correction of the statement by prosecuting counsel were flawless.

[16] In the overall circumstances, we conclude that the failure to discharge the jury cannot be impugned. The findings for these eight offences are safe. In line with the single judge, our decision is that leave is refused and the appeal is dismissed.