

Kengo Iwamoto's Rape Conviction Tossed Based On False DNA Trial Testimony

Kengo Iwamoto [has been acquitted](#) of rape by the Fukuoka High Court in Japan based on new evidence the prosecution presented false DNA evidence at his trial.

Iwamoto was 19 when he was charged with raping a 17-year-old girl in October 2012 in Kagoshima, Japan. Kagoshima is on the southwestern tip of Kyushu island, about 600 air miles southwest of Tokyo.

Iwamoto's prosecution was based on his identification by the victim that was supported by DNA evidence linking him to the girl. Iwamoto did not confess under intense interrogation by the police.

During his 2014 trial in the Kagoshima District Court, the girl testified Iwamoto was her assailant, although there were unexplained inconsistencies in her identification of him. The prosecution also presented the expert evidence of a technician from the laboratory that did DNA testing on semen and saliva recovered from the girl after she reported the rape. The [technician testified](#)



Kengo Iwamoto (KYODO)

the quantify of semen recovered from the victim was "too small for analysis," however, there was a positive match between Iwamoto's DNA and foreign DNA in saliva found on her breast.

Iwamoto's defense was the young woman misidentified him and she gave contradictory testimony, and the DNA test of the saliva may not have been reliable.

After his conviction the 21-year-old Iwamoto was sentenced to four years in prison.

While his appeal was pending Iwamoto requested additional DNA testing of the semen and saliva. A different laboratory discovered that not only was there enough semen to test for DNA, but the test determined that Iwamoto's DNA didn't match that of the man who deposited the semen. The laboratory also tested the saliva, and discovered that Iwamoto's DNA did not match the male who was the source of the saliva.

In January 2016 the Fukuoka High Court

granted Iwamoto's appeal and ordered his acquittal based on the new exclusionary DNA evidence, and the unreliability of the prosecution's expert DNA trial testimony. The court's [ruling noted](#) that the laboratory staff who worked on Iwamoto's case before his trial either had "extremely poor" analysis skills, or sought to "hide" an outcome that contradicted the police and prosecutor's position that Iwamoto was the woman's assailant.

On January 27, 2016 Iwamoto's acquittal became final when the Fukuoka High Public Prosecutor's Office announced that although it didn't fully agree with the High Court's ruling, it "cannot find reasons to appeal."

After his acquittal Iwamoto told reporters that he was overjoyed to be free after almost two years in prison. [He also said](#) that "In order to prevent false charges, all cases should be made visible. Investigators should not trust everything victims say and should have doubts when they notice contradictions."

Sources:

[Kagoshima man freed after wrongful rape conviction](#); police DNA tests called into question, *The Japan Times*, January 27, 2016



Australian Appeals Court Acquits Uncle Of Incest For Sex With Adult Niece

The Queensland Court of Appeals [has acquitted](#) an uncle of his 2008 incest convictions for having sex with his 17-year-old niece.

On July 24, 2008 an uncle in Queensland, Australia pled guilty to three counts of incest with his 17-year-old niece. She was considered an adult of legal age to consent to sexual relations and marry.

He was sentenced to three concurrent 2 year prison terms suspended after 6 months. The man, only identified as M. C. H. in court documents, served his sentence.

On July 15, 2015 he received legal advice that he should challenge his convictions because he pled guilty to non-existent crimes. He was informed that at the time there was no legal prohibition from an uncle and niece of legal age from marrying, and incest did not apply to "carnal knowledge



Queensland Court of Appeal in judicial building, Brisbane, Queensland, Australia (2012, Wikipedia.org)

between persons who are entitled to be lawfully married."

On October 22, 2015 the court of appeal granted H.'s application to extend the time for him to appeal.

After reviewing H.'s appeal, the Queensland's Director of Public Prosecutions [conceded that he](#) "could not have been lawfully convicted of the offences of incest, therefore, the convictions cannot stand and it would be a miscarriage of justice to let them remain."

On March 15, 2016 the court of appeal quashed H.'s convictions and ordered his acquittal on the basis that under the Australian Marriage Act of 1961, at the time of the alleged incidents it was not illegal for an uncle to marry or have sexual relations with a niece of legal age, therefore no crime had been committed. The Court's ruling in *R v*

MCH [2016] QCA 61 [stated in part](#):

At the time of the alleged offence, s 222(1) of the Code relevantly provided: "This section does not apply to carnal knowledge between persons who are entitled to be lawfully married."

The relationship between an uncle and a niece was not then within the defined categories of "prohibited relationship" under s 23B(2) of the Marriage Act 1961. As a consequence, ... the appellant and the niece were, at the time of the alleged offences, "persons entitled to be lawfully married".

It follows that the appellant could not have been charged under s 222 of the Code.

The appeal is allowed. The verdicts of guilty entered on 24 July 2008 are set aside. On each count, a verdict of acquittal is entered.

Sources:

[R v MCH](#) [2016] QCA 61 (15 March 2016)

[Old man's incest conviction quashed](#), 9news.com.au (Sydney, AUS), March 22, 2016

