

13. Judgment

13.1 Structured approach to defended criminal cases

Decision making is a process of applying particular facts to the relevant law over the issues concerned.

The court must adopt a judicial approach, which will divert you from reaching conclusions before all the evidence and arguments have been placed before the court.

The way to do this is to employ a structured approach. There are three tasks:

1. To be clear what the defendant is charged with and all the essential elements of the offence/s:
For the defendant to be found guilty, every element of the offence must be proven beyond reasonable doubt. It is vital that the court is clear about the elements that must be proved.
2. To determine what the facts of the case are - what happened, what did not happen:
The defendant is presumed to be innocent and the prosecution must prove that he or she is guilty. This is done by reference to the evidence produced.
This may involve assessment of the credibility of witnesses and the reliability of their evidence.
3. To make your decision:

This is done by applying the facts to the law.

You must make an independent subjective decision. Under no circumstances should you ask anyone else to decide the matter.

13.2 Note taking

A suggestion is to note each element of the charge on a separate sheet of paper. As the evidence is given, note it as it relates to each of these elements. This method can provide a helpful framework for your decision.

13.3 Delivering your judgment

The court must deliver its judgment in every trial in open Court, either immediately after the termination of the trial or at some subsequent time. The adjudicator may simply explain the substance of the judgment, unless either party requests the whole judgment to be read out.

If the court reserve decision to a later date, it must notify to the parties when the judgment will be delivered: Ss-[207](#) Criminal Procedure Act 1972.

The defendant should be present when deliver the judgment. Every judgment must be written in English and contain:

- the offence of which, and section of the [Crimes Act 2016](#) or other Act such as [Motor Traffic Act](#) etc under which, the defendant is charged;

- the point or points for determination (the issues);
- the decision on each of those points; and
- the reasons for the decision.

In the case of an acquittal, the court must direct that the defendant be set at liberty.

In the case of a conviction, include the sentence either at the same time or at a later date, as appropriate.

Sign and date the judgment in open court at the time of deliver it.

Note, however, that if the defendant pleads guilty, the judgment need only contain the finding and sentence or other final order.

13.3.1 Judgment format

The format below is a useful format for making and delivering the decision. This must be applied to each charge.

It is a good idea to have the 'losing' party in mind when giving reasons – make sure to address all their evidence and submissions thoroughly.

- 1 The law
What must be proved beyond reasonable doubt. The elements of the offence.
- 2 The facts not in dispute
The facts that are accepted by the defence. The elements that those accepted facts prove.
- 3 The facts in dispute
The facts that are disputed by the defence. These are usually the issues (points for determination) in the case. Your finding of the facts, with reasons. Which evidence you prefer and why.
- 4 Apply the facts to the law
Apply the facts as you have found them to the elements of the offence. Do the facts prove all the essential elements?
- 5 Deliver your judgment
This will be conviction or acquittal. Structure your judgment before delivering it. Make sure you give adequate reasons and that the parties understand.
- 6 Orders
Pronounce any orders as to costs, return of exhibits, etc.