

Russell v R

Case Summary

FACTS

Mr. Russell, an "extreme body modification artist," was charged with three counts; female genital mutilation (FGM), assault occasioning grievous bodily harm (GBH) with intent, and manslaughter by criminal negligence. His actions included excising parts of a complainant's labia, performing a makeshift "tummy tuck," and repositioning of a silicon implant that resulted in a client's death due to sepsis.



ISSUES

Among other issues, the court had to consider whether the complainants' consent could serve as a defence to a charge of assault occasioning grievous bodily harm, and whether the offence of FGM under s 45(1) of the *Crimes Act* should be limited to only children, as was argued by the defence.

FINDINGS

The District Court convicted Russell on all three counts, ruling that aside limited exceptions, a person cannot consent to GBH. The NSW Court of Criminal Appeal upheld the convictions for GBH and manslaughter, but overturned the conviction for FGM, ruling that s 45 of the *Crimes Act 1900* (NSW) should be applied only to ritualistic practices involving children. Russell's sentence was reduced to 7 years imprisonment with a non-parole period of 5 years and 3 months.



TAKEAWAYS

This case considered the limits of personal autonomy in criminal law, and the role that legislative purpose and public policy considerations play in balancing individual freedoms with public health and safety.

