Charge approval: C; substantial likelihood of conviction: (R threshold if public policy) + (b) charge is in public interest: bizarre events leading to offence, not serious, mitigating circs, A made reparations,
Nixon: C has special quasi-jud. role which must be free from interference from courts- including charge approval; charge approval only reviewable if public confidence undermined- abuse of process (Aop)? Look to fund. wrongs- improper motive, political reasons, bad faith in repudiation, C acting outside proper role s.7-2 types of AoP: (a) misconduct affecting actual fairness of A's trial- charge approval made it impossible to defend case, or (b) misconduct prejudicial to A's interests- unfair/bad faith/improper motives; tarnish IJS
Threshold: R basis 1 branch involved b4 court will look behind C's acts- can't do AoP based on mere claim- then C may need to prove why
Reyat: D wants charge approval docs to find improper conduct to run s.7- won't be disclosed w/o real + substantial possibility of bad faith/improper motives by C; do *Reyat* first, then *Nixon* application

Indictment: lists CC provision- each EE, BARD; each count= 1 transaction but transaction interpreted broadly **(581)** must give notice so A w/ some specifics so A can meet/direct D(**581-3**); must ensure charge ≠ overbroad; D can ask for more details (**587)**
Saunders: Fund. principle= offence as particularized must be proven; by particularizing, each aspect becomes an EE of offence that C must prove; A needs to be R informed of charged to have fair trial + FAaD
JBM: if CS has elements surplus to what CC requires for offence, C needn't prove them- subject to P analysis- (1) if defence can prove relied on surplus + tactic or failed to take certain steps before of it, there will be P; (b) If surplus clearly focus of C's case, can't exclude it.
Irwin: (Amendments) C can amend charge on appeal provided no P to A(**683-1**); C can apply to amend charge to fit evidence at trial- provided no P(**601-2**); same act/defences? Defence would have argued case same way?; Court has power to amend defects/add/remove to correct problems from indict~ (**601-3**), but will consider evidence from trial, circumstances of case, and if P/unfairness to A if variance, error or omission is amended(601-4); if P/unfairness can be remedied by adjournment, do it(**601-5)** no substitute charge if old wasn't defective in substance; **583**- absence of these ≠ insuff. counts- but combine them may mean insufficient notice; **s.601(4.1**): time+place usually aren't EEs of offence - except in certain circumstances (eg. alibi)
Harris (amendments) later in trial= more likely P; bigger change= likely greater P; pretrial amend. likely won't provided D hasn't taken steps in reliance, that they can't adjust to (irreversible P if took stand + gave incrim. evidence- won't allow amendment); mere strategic steps ≠ P; unlikely allowed just b/c weak evidence- and take entirely new tack to conform indict~ to case C advancing all along
Included offences: consider EEs- if 1 knocked out, can A be convicted of lesser? (1) CC may specify included offence(**660)**; (2) lesser offence necessary - attempts always included (660); (3) offence necessarily committed thru principal offence (***RG)***; (4) must be essential part of principal- A can tell from indictment he'll be charged w/ both (notice); if possible to be guilty of greater w/o lesser ≠ included (***RG***) (5) Even if not necessarily included, if wording of indict~ specific, may include others= notice (***RG***)
Heaney: No 2nd charge for something already convicted/acquitted of; no multiple charges for same transaction;
If several similar offences (from same situation/lesser included as part of greater), apply to knock out at end of trial via *Kineapple*; if same factual + legal nexus, knock out lesser; factual= easy; legal or policy issues? offence protects different societal intersts? offences w/ violence against different victims? if offences have different consequences?; if disparity in severity- likely no conviction for lesser offences, unless lesser= unusual; apply *Kineapple* for offences about diff. ways to do same wrong or if lesser is required for greater (violent act in ML)

Bail: strong link b/w pretrial detention + convictions= strong presumption of bail; ***Star***: Bail(a) Liberty right; (b) link b/w pre-trial detention + conviction; stigma, loss of connections, jobs, etc if no bail; bail meant to protect trial fairness + mitigate stigma and harm to A of contact with CJ; publication ban and pre-trial detention essential to promote fair trials, protect fundamental rights of the A- not just about fair trial but to allow A to focus resources on bail hearing; pub. ban vital to measures to promote fair trials + fast bail hearing , limit harm/penalty to A; protect A's in fair trial + fair access to bail- ensure certainty, speed, efficiency
S.515 bail: A can make promise to appear; police can release A(**496-499**); if not, bail hearing at PC; Most hearings only contest limited conditions; C has onus to justify no bail (**515-1**)- tho 469 offences A has onus (also **515-6**); if C can't justify- J can release on conditions (515-2), require surety; other conditions tailored to crime- useful for D- agree to stricter= more likely bail (see 515-4); **Contested:** when C fully opposes bail; For serious issues, if unprepared for hearing, may lose A for longer time if lose hearing; may want to request time to make strongest possible bail app. BRING affidavit + docs
s.515(1) Criteria for bail (*Parsons*): on bail review, AC very deferential- A must prove why new circumstances + on all 3 grounds- C needs to defeat 1; *1ry*- flight risk- easeof flight; 1ry resident; roots; family, business, work history, hide prior to offence, etc; *2ry*protect/safety of public: (Vs/Ws)- severity of crime, history/potential for crime, CR/etc ; *3ry*: other causes or if detention needed to maintain pub. conf. b/c (a) strength of C's case; (b) nature of offence; (c) context of offence; (d) severepenalty; If 1st bail hearing at SC(469 offences), review goes at CA; 3ry only rarely deny bail in cases (when 1ry + 2ry not met) (high profile or very strong case)
→ Bail hearing requires highly detailed knowledge of the A and their past and present circumstances
Tremblay(counsel) *Rowbotham*: if no aid but s.7/11 require fair trial, state may need pay if A can prove (on BoP): no $ for lawyer (assess A's finances) *and* essential to fair trial (serious charges? length/complexity? A's ability to defend case (education, exp w/ CJ? exp. with crim.pro?); *Charter* ≠ require perfect defence but just a fair trial; Js don't like to impose $- yet selfreps waste more time; No legalaid if no jail; charge approval standards= important!

Baxter (*Stinchombe*- disclosure) C= general duty to fully + timely disclosure; iniated by D request- but ongoing O by C; Inadequate disclosure strongly associated with wrongful convictions- vital to FAaD *and* efficiency; Delay Reason: *Protect Witness Safety*; *clearly irrelevant*- C has limited discretion to delay; Relevance: R possibility A's right to FAaD impaired if withheld? C's must bring w/i exceptions - justify why no disclosure- degree of P irrelevant to breach- mainly to remedy; failure of timely disclosure can be s.7 violation- but only if P
Bjelland: *s.24 remedy via P*: (1) A's ability to FAaD- fair trial; (2) to IJS- exclusion usually via 24(2) than s.24(1); 2 steps: (1) failure to

disclose= *prima facie* s7 violation; (2) show P + ask for remedy; fair trial ≠ perfect trial; balances public interest in truth + preserves PF for A; Exclude only if trial unfair + no remedy thru adjourn/disclosure order (usually enough), or for IJS; If trial started, more likely P to A; if in pre-trial custody and adj~ may cause unR delay; deliberate withholding evidence- exclusion (24-1) may be appropriate to preserve IJS; SoP rarest if other remedies insuff + irremediable P to make FAaD or to IJS system
Salame: (lost evidence) If can't test no FAaD- A show why; C- show evidence irrelevant; C's has duty to preserve evidence; (b) if absent, explain why- no breach of duty if not lost due to unacceptable N; (c) importance of evidence when lost? R attempts to preserve? More relevant= more care required; (d) C's onus to show not lost thru N- if yes, breach of s.7; (e) if evidence lost to avoid disclosure may= abuse of process; (f) s.7 breach b/c of failrue to disclose/abuse of process, SoP rare; (g) even if no N, may be a s.7 breach if loss prej~ to FAaD maybe SoP.; (h) to assess P, hear evidence b4 deciding if SoP
McNeil:: C + popo are 1; C has O to disclose all info it has that R could aid A in FAaD- or justify why not; D can subpoena evidence (698/700): Relevance: (1) argue 3rd party info likely relevant (R possibility info relevant to trial issue); if threshold (J decides), can order production; if J gets it, thinks relevant, general rule= disclose; balance A's right to FAaD, value, REXP of info; Pother party; A right to FAaD usually > 3rd party privacy- Once likely relevance met, same C's file- C must justify not disclosing

Severance: strong link b/w multi-count indictments + conviction**(s.590-3)**: A must show (BoP) why it's in the interests of justice to try separate - on 1+ of counts or from coA; 1 count/transaction; (**589**-murder exception- C need prove unrelated count part of same events)
Notice: Provide C w/ notice of sever motion- factual/legal basis;SoC, cases, purpose, and CC; file w/ registry send to C + coA;
Suzack:(**591-3**)- broad discretion for TJ to sever if interests of justice require it (591-3); Strong presumption to try As of joint crime together (consistency of verdicts, time/resource efficiency, efficiency, witnesses); TJ should consider practical effects- judicial resources, effect on Ws, potential P; TJ must recognize competing interest of coAs; if judge thinks jury instruction won't remove prejudice due to coA (leading proensity evidence for example), order severance.
McEwan: A asks to sever: (1) mere desire to call coA ≠ auto. sever; (2) if A asks to sever (no FAaD if can't compel coA to testify) TJ can consider if R possibility coA will testify if sever + that could affect verdict
Last: 2 counts similar, can mix evidence (similar fact)- but here evidence relevant to 1 count can *only* be used for that account; A asks to sever dissimilar counts- look at factual and legal nexus b/w counts; P to A (testify on 1 set of count- and need O+S reasons why), effect of multiple trials; Balance efficiecny w/ risk of P; evidence complxity; inconsistency; similar fact evidencey; efficency; affect of antagonistic evidence; little factual or legal b/w counts- no real justice interest in putting 2 together; no overlapping evidence; no chance of sim. fact app so no increase in effieciency; most factors favour separate trials- risk of P to A outweighed benefits to ADMJ in trying the counts together."

Notice/Motions: ***Sipes***: give notice to court/C/CoA w/ factual/legal arguments, list of Ws, efficient, lets them prepare; for any 24(1) remedy CQA requires specific notice of arguments etc to AGs- allows them to prepare; Court has inherent discretion to control court- intervene unR delaying trial, making proceedings unmanageable (admin of justice!)- ensure fair + efficient trial, control evidence order- all relevant to 11(b)
Vukelich: A motions voir dire to exclude evidence- once TJ gets notice + materials backing it; TJ looks for evidentiary grounds- if insufficient, has discretion to stop it if no R chance of success- no point in wasting time; Importance of clearly presenting evidence + strong foundation in notice of motion and oral argument; Common for s7 - no point arguing AoP w/o basis; less for unR S&S b/c motion usually determines trial result;
Bains: A motions for *voir dire* re s.7 to exclude evidence (improper C conduct)- wants closed court to go further (CIs) judge Vukelich's; no chance of success- no AoP even if allegation established- so no point in going to hearing; R possibility of success has higher threshold for big remedies; abuse of process= HIGH; No right to voir dire just b/c claim Charter breach- show why!
Hooites-Meursng: exceptions to general to get motion rulings prior to trial; A wants SoP b/c improper C conduct- court says wait to see if full evidentiary record shows actual not merely speculative prejudice- actual effect of C's misconduct on trial preventing A properly defending it; Don't stop trial on pure speculation

S&S: Arrest Power: s.9- right to no arbitrary detention; s.8 right to not be unR searched (**495**); ***Juan***: R grounds= less certainty but > mere suspicion- maybe not even high suspicion; < than BoP; cop can arrest w/o warrant if he believes, on R grounds, S has committed indictable - subj./obj. R + P grounds- and this belief must be obj. R; Obj. standard can include cop's experience and training
Mann: CL right to search incident to ID-10(a) requires reasons 4 detention:(1) detention must be R necessary given obj. view of circumstances- good susp. link b/w detainee + crime- and subj.then set this against liberty interest; brief (2) Warrantless search such as search incident to ID can only be for weapons or to preserve evidence- it must be R necessary- consider duty performed,, importance to public good, nature of liberty, and type of interference with it; must be on O facts (avoid irrelevant/discrim. factors)
→ can pat-down if R grounds for need to do so for safety reasons- detention and search must be done R.
Jones: *Mann* threshold > than mere suspicion; R grounds for arrest isn't an standard; but beyond mere suspicion/obj. unjustifiable honest belief; R grounds met when credibly-based probability replaces suspicion
→ Even if lawful arrest, search wasn't justified- didn't fall w/i CL rule- no R reason to believe search was needed for safety as S was handcuffed- pattern of disrespect of *Charter* rights- relevant to 24(2) remedy
Southam: s.8 guarantees against unR S&S- zone of privacy where indiv. has REXP from unR S&S; Jud. auth. required if possible- warrant *before* search- err on side of privacy;post facto legit. of search inappropriate- aims prevent unjustified searches; suspicion evidence WRT offence not enough- R + P grounds that offence done + relevant evidence will be found at (1) Search request w/ affidavit; (2) under oath w/ supporting docs; (3) put b4 J; (4) requires R + P grounds offence committed- and evidence will be found at the location
→ J look at materials, assess for R + P grounds to search; if search lawful anything found= evidence
Whitaker: D claims warrant overbroad- ITO didn't support R grounds to search whole property; R probability/belief; consideration of totality of circumstances; common-sense basis; JR of warrant considers"if it could been granted," based on record before authorized, amplified on review; Unsupported parts of ITO can be severed, then check if rest suff. to authorize. *Collins* exclusion test- (1) effect on fair trial of admitting evidence; (2) the seriousness of police's misconduct- pattern? severity? deliberate; and (3) effects on admin. of justice of exclusion- society's interest in deciding case on merits vs need to distance itself from misconduct
Wilson: *Voir dire* to see if search was R- could J have R granted warrant? If pass *Vukelich*, can amplify grounds for review + cross-undermine factors, such that no R + P grounds for J to have approved it; App. requires full + frank disclosure but incompleteness won't alone, invalidate warrant breach *Chartec*; But here, even tho 4th factor undermined upon review, other factors kept it above R + P threshold; What if issues related to search impugn public confidence in the justice system- rather than FAaD?- If affidavit has fraudulent

statements/deliberate non-disclosure of info , even if R + P grounds for search, fairlyl likely the court will throw out warrant to protect IJS
***Bains**:* Presumption that warrant properly authorized; A must disprove; no right to voir dire when challenging warrant; If parties agree should be a voir dire, TJ will likely agree but may need submissions; 2 points for J to Vukelich: (1) does D get to fully argue hearing? Enough evidence to argue?; if yes, (2) do they get to call witnesses and lead evidence? TJs can limit scope of *voir dire*
→ right to Q Ws must be granted- A can challenge ITO info through cross, or undermine "efficacy or reliability" of the info in it

Dudley: Summary: 6 months max; prosecuted summarily; only in PC; Hybrid: 6 month max unless waived give C option to proceed summ. or indict; if C opts for summary goes to PC; Indictable- C may opt for it, or it may be mandated by *CC*; some Indict~ offences must be in PC (see *CC* **s.553**); if not 553, 3 options: trial by PC judge; by J at SC; or by jury at SC; no limitation perod; if potential 5+ year jail term, a jury must be available
→ Summary/hybrids- trial w/i 6 months; proceedings outside= mistrial unless A consents to waive; hybrid, if no consent, invalid election doesn't invalidate info- C can go indictably on info unless basically AoP- or A already acquitted on it; C can't appeal acquittal based on this- that was their responsibility in 1st place
→ C: declare how proceeding before A pleads; if C wants to go summarily after 6-months, both should declare agreement before plea; presumed C proceeding summarily for hybrid offences if tried in court w/ jurisdiction to hear summary~;Hybrid= indictable unless C chooses to proceed summarily
→ Consent any point until verdict- C deemed to consent by choice of summary- A's consent must be clear
Gunning:Judge= Qs of law + directs jury; give opinions on Qs of fact- but just opinion; Jury= sole judge of facts + sole duty to determine verdict- except if J sure no evidence that "properly instructed jury could R convict"- judge can direct jury to acquit (avoid wrongful convictions); but J can never direct jury to return guilty verdict
→ Judge can remove defence from jury if no evidence for it- only serves to confuse jury- "AoR" threshold
→ If no guilty plea or admission by A of 1+ of the EE of offence, the jury must decide if C has met burden
Krieger: J erred in directing verdict- new trial needed if this took decision away from jury; TJ undermined jury role- can tell jury what should do, not what must do; Even if A basically admitted guilt, a guilty verdict still required- from jury not J; Even if/c facts admitted that cover all C case, guilt/innocence must be thru verdict
Rose: Closing address limited in scope- can't bring new facts w/o evidentiary basis; relies on interpreting evidence, no new theories; D has access to all facts relevant to guilt- can present case, comment on evidence; Not clear that last address is even an advantage so no Charter violation of FAaD; If C goes outside lines (unfair comments/exaggerations) court can issue corrective instruction- if very serious, P party may get right of reply (**651-** righ tto go last**)**

Morin: length of time critical but not decisive; Time= charge until trial's end;11(b) apps usually happen before actual trial so time of trial isn't wasted- bring record fo proceedings; PC- usually a 12-14 months approaches unacceptable; SC: 22-24 months (1) Near range? Successful app.= well outside zone; (2) Contextualize delay: Conduct of D- adjourns? consistent w/ wanting early trial- be prepared for motions; Conduct of C- key evidence late requiring adj. for D to prepare weigh sign.; also delays in disclosure, withdrawal of charges; complexity of case; Prejudice- delay tough for A to FAaD- evidence available earlier now gone (tough!); Impact of delay on A- How is delay impacting client (liberty- bail? tough conditions? re-apply for bail after delay? physical, psych., community., aspects of trial- Establish factors on sworn affidavit backed by docs- can infer P from delay if lage
Godin: Delay wasn't extreme- but outside acceptable; no significant P to A; partially due to C's late disclosure; partly due D's scheduling issue but ≠ waiver of time- scheduling only requires R availability, and D made R efforts- C that caused delay- and D tried to fix; FAaD part of P- but not only factor- many cases unR delay occurs w/o prejudice FAaD; SC revives inferred P- longer delay= stronger inference of prejudice to A; Comm. interest in trials w/i R time- Ws + evidence better available and fairer for A
R v Bains: no 11b even tho 4 year delay; Complicated charges; multiple As w/ tons of motions, disappearing As; etc;
→ D made efforts to keep trial going + charge complex but delay wasn't C's fault either (coA's)- should have asked for severance
→ 1 factor- but not exclusive - for severance; if request unsuccessful at least help with request for 11(b); → No prejudice to FAaD- passage of time wouldn't affect evidence; No personal P– doesn't go beyond what would happen to everyone would experience in facing charge; limits inferred P from *Godin;* delay wasn't C's fault so inferred P takes longer; even major delay needs to get to heart of personal prejudice

Grouse:TJ's findings of fact: weight of evidence + inferences from facts, reviewed on standard of palpable and overriding error; apply principles to facts= same standard- unless decision traced to incorrect legal principle- judge's statements of legal principle reviewed on the standard of correctness:
s.675: Rights to appeal- summary process similar, but to SC- based on Q of law, fact and mixed (leave for latter 2); Go before judge; make leave app;; put all arguments in factum in factum and argue at one time;
s.686: allow appeal to set aside verdict if unR or on other grounds; 686(1)(b)(iii+iv): whether error reversible
2 parts: (1) showing error (2) Filing notice of appeal: 30 days sentence- or appeal sentence; facts+grounds
Grounds of appeal**:** Motions; trial- other rulings; Jury trial- instructions; Read charge- J forgot something; used old law; misexplain; error- usually very serious – b/c jury knows nada- ruling of the jury could be UnR
Findings: (1) Finding of fact: Standard PunR: TJ get significant deference- could any R trier get it?
(2) Finding of law: Standard of correctness- Where the law is wrong, it is wrong; tho Js assumed to know law
(3) Finding of mixed fact/law: Standard PunR- application of fact to law to make legal finding

Reversible Errors= Errors of law/fact usually lead to new trial

Austin: jury ultimately given the wrong law- and D counsel agreed- goes to whether error is reversible; but wrong instruction by TJ trumps D's agreement= reversible error, DESPITE position of defence
Position of counsel*:* If D doesn't bject to error, less likely considerd error, but not determinative factor presumed D acting competently; so if no objection, difficult to argue on appeal that error of law was fatal→ Wrong instruction on critical legal issue, even w/o objection= serious

error that was significantly prejudicial to the accused that warrants a reversal Nature of error: If no error, different result? AC can say (s658) yes, an error, but no serious effect; Failure to review evidence: Doesn't likely need AC review- especially in simple trial

Sarrazin: 686(1)b allows AC to uphold verdict even if TJ made error of law if "no R possibility verdict influenced by mis/non-directioe"- failure to give jury other offence, if R available, usually reversible error, absent overwhelming evidence on main charge; if absent error, C's evidence still overwhelming= no R possibility of diff. result; If error harmless=
→ Emphasize why factor subject to an error would have been weighed more heavily by the trier of fact such that the outcome would have likely been different without the error
→ Focus on overall strength of case + evidence- legal errors require consider overall strength of case to see if 686(1b) applies

Miscarriage of Justice + Misapp. of evidence- s686(1b)

Lohrer: Discord b/w evidence + what J said in judgement; Needn't prove TJ would have come to diff. conclusion if used evidence correctly- or which outcome but they R *might* have come to different judgement- such that verdict is suspect, b/c they got evidentiary record wrong- miscarriage of justice; Forgetting key evidence or just getting it wrong- if conviction depended on misapp. of evidence- miscarriage w/i s.686(1)(a)(iii), no fair trial even if evidence at trial was capable of supporting a conviction; TJ needn't mention every bit of evidence, so if arguing miscarraige b/c misapp- link failure to consider to verdict (prove why mentioned)- easier to prove when J looked but got it wrong

Shen: clear misapp in reasons- J relies on incorrect theory; when errors in reasoning, verdict is incorrect b/c based on improper evidence; but any error isn't enough to overturn the trial- to overturn, misapp .of evidence doesn't need to have played a critical role in the verdict- you needn't prove that J would have come to a different result, just that they might have- needn't wipe out entire conviction basis

Unreasonable Verdict:= separate grounds for appeal- usually acquittal instead of new trial:; if significant issues with evidence, can reweigh evidence; Doesnt' matter if CA uncomfortable w/ verdict- and they might have acquitted- but whether R trier of fact, properly instructed, could have convicted- requires shaky verdict w/ very problematic evidentiary issues such that any R TJ bound to acquit

Dell: AC considers each piece of evidence independently, then as a whole- could properly instructed jury R produce verdict? Not just substituting CA's view for TJ's; CA must articulate specific + precise reasons if they find verdict inconsistent w/ requisite standards
Peers: (i) FIrst step easily met for misapp. (ii) Did it play a significant role in the conviction- must play essential role in reasoning process leading to conviction; if verdict depended on misapp, no fair trial, even if enough evidence at trial to sustain conviction; No need to decide if misapp. alone enough to set aside the verdict- just factor if evidence overall supports conviction.
→ trial judge's inferences/reasoning was completely unR/irrational requiring an acquittal.
→ "A MOE material to conviction will result in acquittal if the evidence apart from misapp. is not R capable of supporting a conviction. If TJ's reasons for conviction are fatally flawed as a result of a material misapp. of evidence but the evidence otherwise might support a conviction the remedy is a new trial rather than an acquittal."
Sinclair: UnR verdict: (a) judge makes fact finding/inference essential to verdict that's contradicted by very evidence- illogical or UnR finding given the evidence; (b) TJ makes fact-finding/inference essential to verdict incompatible w/ other unquestioned evidence- thus TJ makes supportable inference based on some evidence- but not supportable based on other evidence
→ "*Beaudry* test addresses the D of TJ's verdict- looks at logic of their findings of fact/inferences drawn from trial evidence. A TJ who misapprehends evidence goes to *Lohrer* test, not *Beaudry*; TJ who isn't mistaken as to evidence but gets verdict thru illogical/irrational reasoning process= *Beaudry* error"; UnR verdict under Beaudry, that isn't supported on evidence= acquittal

- UnR verdict under *Beaudry*, but evidence shows enough for conviction= new trial

→ Look for errors- then for the impact of error- usually aim for new trial, but if severe could potentially result in new trial; then assess proportionality between the character of the errors and the effect on the result

(1) Error of law- correctness standard to review whether judge used the right law

- However if clear from reasons that error only had slight impact + number of other serious factors that J covered, may not be reversibleso be prepared to argue why it was fundamental part of J's reasons.
- Error of law could hypothetically lead to acquittal- if applied such that no R J could convict

(2) Error of fact- much deference from AC; Given palpable _ overriding error, CA can assess impact of error ; s686(1)b allows overturning errors but maintaining the result given strength of other evidence; New trial- unR finding of fact played role in conviction- so new trial needed; not that result unR, but verdict might have been different w/o the error; weakens case w/o saying *no one* could have R come to that verdict
(3) Misapp: Was the misapp. material and integral to the reasons for conviction? (eg. was it reversible?) Needn't find that judge wouldn't have found them credible w/o misapp. of evidence, just that they made a mistake that played a vital role in their reasonign leading to conviction

- Demonstrate how the misapp. wasn't merely peripheral to the conviction

(4) UnR verdict: no clear error of fact or law, or misapp. but overall result wrong based on weak evidence; try to reweigh different evidence and argue that as a whole there wasn't a strong enough case for a R verdict- if limited but clear errors of law, fact, reversible and perhaps enough for new trial, argue how once misapp. and findings of fact gone, the narrowed scope of evidence should be enough to declare unR verdict
Prelim. Inquiries: most serious can opt for trial at SC hearing- CC provides for a prelim. hearing at SC (535) ; meant to ensure that the C has case; not a particularly high, but if C lacks evidence for R conviction, case over at end of prelim; useful for testing witness credibility for inconsistencies; D rarely brings witnesses- it's about J hearing C's evidence- won't weigh D evidence against C's- reliability of C's evidence presumed; Essential Q= could R jury convict based on evidence brought forward? J won't weigh evidence- resume C's evidence credible and reliable (so if V testifying likely enough); Type of Evidence: Direct- video/witness of entirety of offence= enough to get past prelim.; A's confession too;; Circumstantial- trier of fact must draw inferences from evidence- however inferences must be R- at prelim J has more discretion on circum- assess whether the guilt of the A one R inference from the evidence?