
TRANSCRIPT OF PROCEEDINGS

SUPREME COURT OF VICTORIA

CRIMINAL JURISDICTION

MELBOURNE

FRIDAY 21 APRIL 2006

BEFORE THE HONOURABLE JUSTICE KING

THE QUEEN v. CARL WILLIAMS

M E N T I O N

MR G.M. HORGAN SC with MR A.J. TINNEY appeared on behalf of the
Crown.

MR C. HELIOTIS QC appeared on behalf of Ms Garde-Wilson.

MS D. COOMBES appeared on behalf of Corrections Victoria.

MS N.M. GOBBO appeared at the request of the Court.

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7
8 HER HONOUR: I have received communication - or my associate
9 received communication from Ms Garde-Wilson, indicating
10 she was being prevented from having a conference in
11 relation to Mr Williams and correspondence has been
12 forwarded by Ms Garde-Wilson - no, by Barwon general
13 manager. Were they delivered by Ms Garde-Wilson?

14 MR HELIOTIS: Sorry Your Honour?

15 HER HONOUR: Were copies of the letters delivered by
16 Ms Garde-Wilson?

17 MS GOBBO: By Ms Coombs.

18 HER HONOUR: By Ms Coombs.

19 MR HELIOTIS: This all started Your Honour, with a request by
20 Ms Garde-Wilson for a professional visit to Mr Williams.

21 HER HONOUR: Yes.

22 MR HELIOTIS: On 21 April, I don't know if Your Honour has a
23 copy of that letter?

24 HER HONOUR: I have a copy of - - -

25 MR HELIOTIS: Written by a Ms Coombs.

26 HER HONOUR: A letter of 13 April 2006.

27 MR HELIOTIS: Yes.

28 HER HONOUR: A copy of a letter of 20 April 2006, from
29 Garde-Wilson, a copy of a letter 21 April 2006, from
30 Corrections, and a letter 21 April 2006 from
31 Garde-Wilson.

32 MR HORGAN: Your Honour should also have - there is a second
33 letter dated 13 April 2006, and I must say that's the
34 letter that concerns the prosecution most of all.

1 HER HONOUR: I do have both, sorry.

2 MR HORGAN: Yes.

3 MR HELIOTIS: I'm not sure what that is, at the moment, I don't
4 have a copy.

5 HER HONOUR: I have two letters from Ms Garde-Wilson, dated 13
6 April; do you have those Mr Heliotis?

7 MR HELIOTIS: I don't have those at the moment but I'm going to
8 be shown a copy of them. Does Your Honour have the
9 letter of 21 April from the Department of Justice?

10 HER HONOUR: I do.

11 MR HELIOTIS: That's the one that of course brought forth the
12 letter from Ms Garde-Wilson and then brought us here
13 today and I haven't seen the ones on the 13th. Yes, it's
14 the letter of 21 April that concerns us and what is - - -

15 HER HONOUR: Before we get there Mr Heliotis, what do you
16 understand the undertaking was that your client gave to
17 this court?

18 MR HELIOTIS: As I understood the undertaking was that she
19 would have nothing at all to do with Mr [REDACTED]
20 involvement in any trial.

21 HER HONOUR: Not at all - not at all. It was an undertaking
22 not to have anything to do with the trial. Your
23 instructor can shake her head but I have the transcript
24 here, apart from anything else and that was the clear
25 indication that I gave, that she was not to have anything
26 to do with this trial.

27 MR HELIOTIS: I wasn't here Your Honour, and of course I accept
28 what Your Honour says. I'm surprised because in fact - I
29 looked at and settled the letter to the Ethics Committee
30 where Ms Garde-Wilson sought their exemption to continue
31 to appear for Mr Williams but subject to her not having

1 anything to do with the [REDACTED] trial. My understanding
2 of what was passed on to me was that in fact that was the
3 undertaking, that it was not acceptable to the
4 prosecution - - -

5 HER HONOUR: No, it was not acceptable - I said that she could
6 have no involvement at all in the Williams' trial, this
7 trial that's coming up in July.

8 MR HELIOTIS: Your Honour, we're going to have to have a look
9 at the transcript on that because before Your Honour
10 would make such a ruling, there would no doubt need to -
11 I mean, the court very, very rarely involves itself in
12 matters of conflict of interest, of course it has the
13 power as it has done on previous occasions but they are
14 very exceptional cases. I know that the Ethics Committee
15 has sat on this issue as far as Ms Garde-Wilson is
16 concerned. We haven't heard back from them yet, to see
17 whether they in fact would give her permission to
18 continue to appear for Mr Williams, as long as she has
19 nothing to do with any of [REDACTED] involvement.

20 HER HONOUR: Can I tell you, I don't care what the Ethics
21 Committee does, I've already indicated that there is a
22 clear and overwhelming conflict of interest.

23 MR HELIOTIS: Your Honour, I'd have - - -

24 HER HONOUR: Ms Garde-Wilson appeared - was the solicitor for
25 Mr [REDACTED] Now the whole perception of whatever
26 information she has is one that she took instructions in
27 respect of this particular trial, not just related to his
28 involvement, necessarily, one would imagine but
29 instructions generally. There is no way I can see that
30 she is not conflicted out of this trial.

31 MR HELIOTIS: Your Honour, I'd have to have a look at the

1 transcript of what took place. It is unfair to Your
2 Honour and unfair to me to continue until we examine
3 that. Obviously Your Honour would not make a ruling to
4 that effect unless some application is brought before you
5 and there's a full hearing in relation to the matter.

6 HER HONOUR: The matter was raised - - -

7 MR HELIOTIS: - - -as came out in the matter of Mr Douglas
8 Maher, courts rarely get involved in these sorts of
9 issues, they are usually matters for the Ethics Committee
10 but I acknowledge the overriding right to say "Well the
11 processes of the court are going to be so undermined that
12 we have to take action and we will prohibit you from
13 acting". That would only be on a hearing of the issue
14 before Your Honour.

15 HER HONOUR: I referred Ms Garde-Wilson to an authority of this
16 court which I read parts of and said "on the basis of
17 that, it seems to me clearly that you are conflicted in
18 relation to this matter", and what I further said was,
19 she could have nothing to do with this trial, and that
20 was the undertaking that she gave. Let me just read a
21 passage to you, Mr Heliotis. It starts at p.8. The
22 police objected to - - -

23 MR HELIOTIS: Just a moment, Your Honour, I need to adjust my
24 arms to this. I didn't anticipate having to read up
25 here. Yes.

26 HER HONOUR: Down the bottom of the page, Mr Lancey on behalf
27 of the police objected to the documents being delivered
28 to Ms Garde - - -

29 MR HELIOTIS: Which line are we looking at Your Honour?

30 HER HONOUR: It starts at line 23, p.8. That is the objection
31 to Ms Garde-Wilson having the documents. I said my

1 understanding is that there is another person who is
2 going to handle it. "Who is that?" "Ms Garde-Wilson.
3 Solicitor Daniella Markovich has no involvement with
4 these matters whatsoever. In the interim, pending the
5 determination of the ethics committee and further
6 submissions to be made to Your Honour I would be seeking
7 for her to take over - " - indistinct, and I presume it's
8 "carriage" or "handling of the matters, and make an
9 undertaking not to have any involvement with the
10 proceedings."

11 Her Honour: "Where does Ms Markovich work?"
12 "She's a solicitor of my firm." "Very well, and how long
13 has she been a solicitor of your firm?" "Since the start
14 of February." "February. What work has she been doing?
15 Has she had any involvement whatsoever with these
16 matters?" Ms Garde-Wilson: "She has had no involvement
17 whatsoever with these matters and has not read any
18 material in relation to these matters." "So what work
19 has she been doing?"

20 "Other files." "Let me make it clear, nothing
21 connecting to Mr Williams, Mr Mokbel, Mr [REDACTED] Are
22 there any other persons? It seems to me at least that
23 it's an interim measure that may be all right. I would
24 probably need more information, as would the Crown and,"
25 the Commissioner that should be, "in respect of that, but
26 if she's had no involvement whatsoever and you intend to
27 have no discussions with her about the matter."

28 Ms Garde-Wilson: "I will give an undertaking to
29 the court not to have any involvement with these matters
30 until such times as an appropriate determination can be
31 made about the conflict matter." Then we went on to the

1 storage of the [REDACTED] files. Page 10 really has no
2 relevance. Then it continued with Mr Lancey at p.11,
3 line 9, objecting again to the fact of having any access
4 to this material and at line 18 I said: "No, Ms Garde-
5 Wilson is withdrawing from the case, not Garde-Wilson
6 Lawyers." Mr Lancey: "Certainly." "She has another
7 solicitor in her employ that she says can take this on, I
8 have no reason to dispute that." "Mr Lancey, might I
9 deliberate?" "Is it a case, Your Honour, just for my own
10 clarification for thinking is that if Ms Garde-Wilson
11 doesn't have this material then her substitute employee
12 or whoever is the person who has access to these
13 documents." "All files, as I understand it, will be
14 handed over immediately to that solicitor and Ms Garde-
15 Wilson has given the court an undertaking. She will have
16 no further dealings with any of the materials in the case
17 and will take no further part in the matters, and I
18 presume that means conferences with your client in
19 respect of this case. Not in respect of everything but
20 in respect of this case." Ms Garde-Wilson: "In respect
21 of this case. Clearly I have to give some instructions
22 to the solicitor in relation to where these proceedings
23 are before the court structurally, but as a matter of - "
24 and then I indicated: "I expect you to exercise sensible
25 behaviour in respect, of course there has got to have to
26 be some communication of materials that you hold and
27 where they are, all of those things. I am not expecting
28 anything unrealistic from you." I don't know how much
29 clearer it needs to be about withdrawing from the case.
30 MR HELIOTIS: The only matter, Your Honour, that struck my
31 attention was, Your Honour, and certainly it's clear, is

1 what appears on the bottom of p.11 at line 28: "Ms
2 Garde-Wilson has given the court an undertaking that she
3 will have no further appearance in this case - " no, I'm
4 sorry, it's a little before that where Ms Garde-Wilson
5 says "until such time". Yes, p.9 Your Honour. "I give
6 an undertaking to the court not to have any involvement
7 in these matters until such time as an appropriate
8 determination can be made about the conflict issue."

9 HER HONOUR: There has been no determination made, no
10 application has been brought in front of me. My
11 understanding is that Ms Garde-Wilson has nothing further
12 to do with this case. If she wishes to come back she
13 needs to make an application to me.

14 MR HELIOTIS: Very well. I understand that position, Your
15 Honour, and I will speak to Ms Garde-Wilson about that.
16 The other problem is this, of course, there are six
17 matters involving Mr Williams.

18 HER HONOUR: The letters she has written to the prison make it
19 quite clear she was seeking to have a conference with her
20 client about the matters commencing in July 2006. The
21 matter commencing in July 2006 is this one.

22 MR HELIOTIS: I understand that. But Your Honour some process
23 will have to be put in place to ensure that she can
24 confer with her client in relation to those matters not
25 involving this issue.

26 HER HONOUR: At the moment she doesn't need to, they are not
27 even listed.

28 MR HELIOTIS: That is, if I may say so, rather preemptory
29 approach - - -

30 HER HONOUR: They are not listed.

31 MR HELIOTIS: - - - to the matter.

1 HER HONOUR: Mr Heliotis, I am the trial judge in respect to
2 those matters, they are not listed. The matter that is
3 listed is the matter in July.

4 MR HELIOTIS: The appeal proceedings, Your Honour, what is to
5 happen with those?

6 HER HONOUR: The appeal proceedings aren't taking place because
7 you client has sought not to be sentenced, and I remember
8 clarifying are you sure because the appeal process cannot
9 start without a sentence and I was informed that is
10 correct.

11 MR HELIOTIS: Your Honour, can I ask you to just give us two
12 minutes before Your Honour rises for the afternoon. I
13 know it's Friday.

14 HER HONOUR: No, it's fine.

15 MR HELIOTIS: But I just want to get some instructions on this
16 matter if I may.

17 MR HORGAN: We would like to be heard on that too Your Honour.

18 HER HONOUR: The reason I asked Mr Gobbo to attend is that in
19 this letter it says that Ms Gobbo is acting for Mr
20 [REDACTED] as junior to Mr Heliotis. I would have thought
21 that would create the same problems as to why Ms Gobbo
22 was not your junior in the last trial.

23 MS GOBBO: Your Honour, I haven't seen the letter but I don't
24 think it's Mr Heliotis, I think it's Mr Lovitt.

25 HER HONOUR: I'm sorry, as junior to Mr Lovitt.

26 MS GOBBO: No, I'm not, Your Honour, I can't appear in the
27 trial for the same reason I couldn't appear at the
28 committal and can't appear at this trial.

29 HER HONOUR: Have you seen the letters?

30 MS GOBBO: No, I haven't.

31 HER HONOUR: The first letter is dated 13 April. "We write

1 seeking approval for a joint professional visit with
2 prisoners Carl Williams and [REDACTED] on Saturday
3 15 April by the writer and counsel Ms Nicola Gobbo." The
4 next one: "We confirm that the writer is the solicitor
5 on the record for Mr Williams and Ms Gobbo is counsel for
6 [REDACTED] We advise that the proposed legal conference
7 on Saturday 15 April is to confer in relation to trial
8 proceedings listed for July 2006 before the Supreme Court
9 of Victoria, as well as other matters, to which these
10 prisoners have sought advice. I am sure you are not
11 surprised, the next letter is, [REDACTED] is represented
12 by the firm Messrs Valos Black and his counsel is Colin
13 Lovett, QC and Ms Nichola Gobbo." [REDACTED] is
14 Williams' [REDACTED] trial commencing in July
15 2006. I think you understand why I asked you to come.

16 MS GOBBO: Yes, Your Honour.

17 HER HONOUR: You are not counsel.

18 MS GOBBO: No. Your Honour, I have continued to have a role in
19 relation to [REDACTED] and I have visited him, as
20 everyone here is probably well aware, with Mr Valos and
21 one of the reasons - I'll leave aside the reasons - - -

22 HER HONOUR: I read the plea. I've seen the plea in respect of
23 [REDACTED] - sorry - it was [REDACTED] was it - no it's
24 someone else. Are you involved for [REDACTED] in some
25 other way?

26 MS GOBBO: Yes. Not in relation to this trial, Your Honour.

27 HER HONOUR: OK. Well, accordingly - - -

28 MS GOBBO: And for the same - - -

29 HER HONOUR: - - - you certainly shouldn't be having a joint
30 conference.

31 MS GOBBO: I think Your Honour raised on a previous occasion or

1 there was some - someone raised the question of - I think
2 my name appeared on the transcript from the committal or
3 there was some suggestion I was at the committal. I
4 thought that Your Honour had raised it previously, but
5 for the same reason I can't be in the trial because I've
6 acted for one of the witnesses.

7 HER HONOUR: You were certainly not intending to have a joint
8 conference with Mr Williams and [REDACTED] and
9 Ms Garde-Wilson in relation to the trial.

10 MS GOBBO: No, not in relation to the trial, Your Honour.

11 HER HONOUR: Thank you.

12 MS GOBBO: Would Your Honour want me to remain?

13 HER HONOUR: No, that's - - -

14 MR HELIOTIS: (Indistinct) joint conference in relation to
15 other matter.

16 MS GOBBO: Well, we might, yes.

17 HER HONOUR: Sorry?

18 MR HELIOTIS: That's one of the things I need to find out,
19 whether there are matters involving [REDACTED] that don't
20 involve this trial that [REDACTED] and Ms Gobbo may need to
21 speak to [REDACTED] about. But look, if we can have five
22 minutes - - -

23 HER HONOUR: That's fine. That's Mr Valos and [REDACTED] but
24 if it's a joint conference - - -

25 MR HELIOTIS: With Mr Williams.

26 HER HONOUR: - - - unless Mr Williams is involved in those
27 other matters.

28 MR HELIOTIS: Yes. Well, that's what I want to find out. If I
29 can have five minutes before we continue this it may be
30 that we don't have to hear Mr Horgan at all on this
31 issue.

1 MR HORGAN: I want to be heard on the issue, Your Honour, or we
2 want to be heard on the issue.

3 HER HONOUR: What, of the five-minute adjournment?

4 MR HORGAN: No, not on the five-minute - - -

5 HER HONOUR: I will give them the five-minute adjournment and I
6 will come back and hear you all, all right?

7 MR HORGAN: All right.

8 (Short adjournment.)

9 HER HONOUR: Mr Heliotis.

10 MR HELIOTIS: Your Honour, Ms Garde-Wilson's belief was that
11 her undertaking related to any matter that might involve

12

13 HER HONOUR: It wasn't.

14 MR HELIOTIS: Having read the transcript it is quite clear that
15 there are words that go beyond that. What we propose
16 Your Honour, is that she will indeed have no further
17 dealings with this matter until a ruling of the Ethics
18 Committee, if the Ethics Committee is negative to her
19 application, that's the end of the matter. If it is
20 positive to her application and she understands she will
21 then make an application to this court and have the
22 matter aired in what we say is an appropriate way or
23 proper way.

24 HER HONOUR: I agree.

25 MR HELIOTIS: There is an end to that matter, I hope. In
26 relation to the joint conference, I think I need to tell
27 you a little more about it, but I'm guarded in what I
28 want to say to Your Honour. There were certain
29 discussions that I was involved in, amongst others, with
30 the director. Following those discussions, Mr Valos was
31 told certain things, we believe by Mr Horgan, but I don't

1 want to make this matter go any further, that caused
2 difficulties between [REDACTED] and Mr Williams. It was
3 sought to have a joint meeting with everybody to quell
4 the rumours and to get things back on an even footing so
5 to speak, without one person biting the back of the
6 other. That was the purpose of having a joint meeting
7 and it was to go no further and that's why Mr Valos was
8 intending to be present as well, because there was Mr
9 Valos who was told certain things, he went back to [REDACTED]
10 [REDACTED] and it's a highly dangerous atmosphere that
11 exists in these prisons and it was just desired to put
12 the whole thing to bed, as it were and to restore calm.
13 We understand Your Honour's concerns about that and it
14 may well be that we'll have to try and do it piecemeal so
15 that Mr Valos can go with Ms Gobbo and address that
16 situation, we don't have any join conferencing.

17 HER HONOUR: I fail to see what Ms Gobbo's involvement is, in
18 respect of that?

19 MR HELIOTIS: She used to act for [REDACTED]

20 HER HONOUR: But she can't act because of the situation.

21 MR HELIOTIS: In relation to this trial, that's so, in relation
22 to - he has certain confidences in her and she believes
23 she would be useful in trying to restore the peace as it
24 were.

25 HER HONOUR: I think that puts Ms Gobbo in a very difficult
26 position.

27 MR HELIOTIS: We're also told that in fact there is no embargo
28 apparently as far as the Office of Corrections was
29 concerned on her seeing [REDACTED]

30 HER HONOUR: No, that was my understanding from the letters,
31 I'm just talking ethically as counsel.

1 MR HELIOTIS: This had nothing to do with any trial, this was
2 an attempt, as I say, to try and restore peace. I wasn't
3 aware of the joint conference, I was aware that a problem
4 had arisen and that attempts were being made to resolve
5 the issue.

6 HER HONOUR: Ultimately it's for Ms Gobbo as to whether or not
7 she things ethically she can do it.

8 MR HELIOTIS: Yes.

9 HER HONOUR: It just seems to me there could be some problems.
10 That's a matter for her.

11 MR HELIOTIS: The problem really then [REDACTED] was concerned
12 about Mr Williams' position and that's why it was thought
13 that a meeting at which Ms Garde-Wilson and Ms Gobbo were
14 both present so that they could both address the issue at
15 the same time rather than one constantly being behind the
16 back of the other.

17 HER HONOUR: One of the things is, if that's going to be the
18 situation, it has to be at the request of Mr Valos as
19 well. Mr Valos certainly needs to be there, but - - -

20 HER HONOUR: No, [REDACTED] is Mr Valos's client, and if Mr
21 [REDACTED] wants to hold a joint conference I imagine it
22 would need to be expressed by both of them.

23 MR HELIOTIS: Yes.

24 MR HORGAN: Could I join in this discussion at this stage Your
25 Honour? We find this whole thing extraordinary, we find
26 that second letter of 13 April, the longer one, highly
27 deceptive. If what you are just being told is correct,
28 that's at odds and totally at odds with the contents of
29 that letter. That's just one thing about it. That talks
30 about these parties getting together to discuss the
31 trial. Nothing about allaying fears, anything of that

1 sort at all. We say that the letter is deceptive in
2 another regard, it implies that the Crown and the court
3 are approving of the steps Ms Zara Garde-Wilson is
4 intending to take. That is, is entitled to have this
5 conference, the last sentence of the letter reads: "and
6 advise that the proposed conference does not relate to [REDACTED]
7 [REDACTED] and both the court and the prosecution are party
8 to an undertaking given by the writer, not to be involved
9 in matters relating to the said witness". The
10 undertaking that Ms Garde-Wilson gave Your Honour, was in
11 the clearest possible terms.

12 HER HONOUR: That letter confirms to a degree though, that she
13 believed the undertaking she gave related to [REDACTED].

14 MR HORGAN: How could you possibly believe that Your Honour, if
15 you can read; how could you possibly?

16 HER HONOUR: Obviously she doesn't read transcript.

17 MR HORGAN: If Your Honour is accepting this, we don't, I must
18 say, for our part. We say this is nonsense, we say it's
19 deception of the court. We say Ms Garde-Wilson is trying
20 - would have breached her undertaking - was intending to
21 breach her undertaking and misleading the Correction
22 authorities about what she was entitled to do and we can
23 only think deliberately, we see this Your Honour, as a
24 contempt of court. This letter - - -

25 MR HELIOTIS: Your Honour - - -

26 HER HONOUR: One at a time, thank you. Can you be seated, Mr
27 Heliotis.

28 MR HELIOTIS: Your Honour, some very serious allegations are
29 being made here.

30 HER HONOUR: I understand and I am listening, all right?

31 MR HORGAN: We say, Your Honour, that the transcript to which

1 Your Honour has referred, and other pages from the
2 proceedings of 30 March, made it perfectly clear what Ms
3 Garde-Wilson was entitled to do. She said herself at the
4 beginning, this is on p.1. She has been to the ethics
5 committee, it's sitting on 20 April: "At present I would
6 be withdrawing from any matters which relate to [REDACTED]
7 [REDACTED] as a matter of caution."

8 HER HONOUR: That's what she said and I said that was - - -

9 MR HORGAN: Page 3.

10 HER HONOUR: I said that was insufficient.

11 MR HORGAN: But again at p.3, top of the page: "If I may just
12 address a few matters, which is I do accept, and that is
13 why I am withdrawing in relation to any matters that
14 relate to [REDACTED]" Then there are the passages
15 that Your Honour has referred to and my learned friend
16 has referred to on pp.9-11. We say she could not
17 possibly have had any doubt at all about what she was
18 entitled to and what she wasn't entitled to do. When you
19 look at the letter itself, that longer letter of 13
20 April, there is an attempt in that, we submit, Your
21 Honour, to deceive the authorities. It is to say: I am
22 entitled to do this, the Crown and the court both know.
23 Then you are now being told that the reason for this
24 meeting of the parties, the two prisoners together and
25 their lawyers, is for something else again, not what is
26 set out in the letter. We say it is a grave matter, Your
27 Honour.

28 HER HONOUR: At the moment it doesn't strike me as being the
29 gravity of which you say. I would have thought no one
30 would be foolish enough to commit to writing basically
31 what is a contempt of court, if they believed it to be

1 so. It accords with what she has instructed Mr Heliotis
2 and also, I must say, what she said to my Associate. She
3 contacted my Associate this afternoon saying I am
4 entitled to be there and they won't let me.

5 MR HORGAN: Your Honour, this material had been brought to our
6 attention. We were endeavoring in the process of seeking
7 to mention this matter ourselves before Your Honour this
8 coming week, because we can only see it as a deliberate
9 attempt to breach the undertaking that was given. We
10 say, Your Honour, how can anyone, and a lawyer at that,
11 and a matter as serious as this where the issues are
12 simple have misunderstood the undertaking.

13 HER HONOUR: I find it difficult to conceive of how she
14 misunderstood the undertaking.

15 MR HELIOTIS: Your Honour's view about it we say Your Honour,
16 and we accept what Your Honour says, we say is very, very
17 generous indeed.

18 HER HONOUR: At the moment nothing has occurred, it's all been
19 conducted in writing, it's not a situation where this has
20 all been done by - - -

21 MR HORGAN: Your Honour, it hasn't been conducted - - -

22 HER HONOUR: Mr Horgan, listen.

23 MR HORGAN: I'm sorry.

24 HER HONOUR: It hasn't been conducted by her ringing up and
25 making oral representations only that would be later
26 capable of being disputed or whatever. It's in writing
27 and she clearly indicates in writing that as at the 13th
28 that she has the right to have conferences except in
29 relation to the [REDACTED] matters.

30 MR HORGAN: And sends a misleading letter in support of that.

31 But, Your Honour, can I say it hasn't only been conducted

1 in writing. It only was reduced to writing because the
2 Correction authorities would not permit the contact, the
3 visit was first requested orally and then it went into
4 writing and when you do get the writing it is deceptive.

5 HER HONOUR: I accept it is deceptive in terms of saying what
6 the conference is about, but she is hardly likely to
7 write to the prison authorities and say look there's
8 potential trouble between the two co-accused, we want to
9 go and sort that out. It does relate to the trial
10 because if there's going to be potential problems between
11 the two co-accused that can create trouble for the trial.

12 MR HORGAN: Your Honour, I've put what I want to put about it.
13 Your Honour asked me on a previous occasion whether we
14 would accept an undertaking given by the solicitor. In
15 future we would not. If Your Honour pleases.

16 HER HONOUR: At the moment the undertaking exists and there can
17 be no doubt that Ms Garde-Wilson understands what it is.
18 It's clear is it not Mr Heliotis?

19 MR HELIOTIS: You are cutting me off from responding, aren't
20 you, Your Honour. I find in the absence from my friend's
21 bar table, he has become even more offensive than I
22 recall him. The reality is, Your Honour, he has failed
23 to tell you no one could hope to see Mr Williams, not
24 even a shadow could hope to see Mr Williams without our
25 friend finding out about it. He has not informed you,
26 whatever possible motive she thinks she could gain by
27 seeing Mr Williams in willful breach of an undertaking,
28 it's just sheer nonsense. If she desperately - - -

29 HER HONOUR: Mr Heliotis - - -

30 MR HELIOTIS: - - - had to pass a message to Mr Williams she
31 could - - -

1 HER HONOUR: Is there any reason for doing this? I have
2 already indicated what my views are.

3 MR HELIOTIS: Yes, because he stands on his hind legs and he
4 makes very offensive comments whenever he chooses to and
5 he doesn't spell any reason for it, he doesn't point out,
6 Your Honour, well we know what she's about, she
7 desperately has to see Mr Williams for some reason that
8 we don't want to tell you, it's just offensive. But,
9 Your Honour, it is understood. We acknowledge or at
10 least I acknowledge that it appears to have been a
11 misunderstanding. We find it inconceivable that anybody
12 could believe that Ms Garde-Wilson would be so stupid as
13 having given an undertaking, she has to see Mr Williams
14 at all costs, she can't pass a message on, but she's
15 prepared to put it in writing, prepared to go and see him
16 in the belief that what, Purana's not going to find out
17 that she's had a visit? It's just a nonsense. It was a
18 misunderstanding. We regret that it's happened. I mean
19 I can assure you that if I'd seen the transcript
20 beforehand I wouldn't have spent the last hour of my
21 Friday afternoon before Your Honour, pleasant as it has
22 been. But the reality is we now - - -

23 HER HONOUR: Always is, Mr Heliotis.

24 MR HELIOTIS: - - - we now understand the position, and I've
25 indicated it's not necessarily the end of the matter. It
26 depends on what the Ethics Committee does, we'll come
27 before Your Honour or we won't.

28 HER HONOUR: But until then there will be no conference with
29 Ms Garde-Wilson.

30 MR HELIOTIS: In the meantime, because of the noises from that
31 end of the Bar table, what we will do is that we will

1 seek some way of trying to restore some calm, and it is a
2 problem that arose because of Mr Horgan, I must tell you.
3 I was trying to be a little more polite before, but it's
4 Mr Horgan who spoke to Mr Valos and we say told him some
5 of the truth, not all of it, and created the problem.
6 Now, we've got to try and correct that before a trial
7 takes place.

8 HER HONOUR: OK, are we all done with the personal asides and
9 personal references and unpleasantness, are we; because
10 this really is quite demeaning to a court?

11 MR HELIOTIS: It is.

12 HER HONOUR: This is not the function of this court, to sit and
13 listen to personal diatribes. All right? Now, do I
14 understand that Ms Garde-Wilson not be seeing
15 Mr Williams?

16 MR HELIOTIS: Your Honour, without seeking Your Honour's
17 permission first, she will not seek to see Mr Williams
18 again. She does have to see Mr Williams, she's told me,
19 about two matters that she needs to see Mr Williams about
20 that has nothing to do with this trial, but for - well,
21 indirectly may have something to do with this trial, but
22 can await until such time as you sentence and the matter
23 of the appeal goes forward.

24 HER HONOUR: At the moment - - -

25 MR HELIOTIS: That may affect the trial, and we can only tell
26 Your Honour this - - -

27 HER HONOUR: At the moment there is no proposal for sentence,
28 is there?

29 MR HELIOTIS: Not at the moment, but, Your Honour, if these
30 things aren't put in place now and instructions are not
31 sought now and counsel's advice is not sought now, the

1 reality becomes that when Your Honour then says, well, I
2 want to start a trial, we have to appear before - - -

3 HER HONOUR: Why can't Ms Markovich obtain those instructions?

4 MR HELIOTIS: Your Honour, they're trying to do the changeover
5 as quickly as they can. That's all we can say to Your
6 Honour, but you - - -

7 HER HONOUR: If instructions need to be sought, I think

8 Ms Markovich should be able to seek them.

9 MR HELIOTIS: They will be from now on. The appeal processes
10 and what was going to be appealed against and what effect
11 that might have on the next trial, were things that had
12 already been discussed between Ms Garde-Wilson and
13 Mr Williams; these were all matters that had been put in
14 place. In her mind this had nothing to do with
15 [REDACTED] and that's why she was proposing to go ahead
16 and do it. We understand your new - we understand now
17 what took place. I understand fully that the words are
18 more general than she understood them. Nothing further
19 will be done by her in relation to Mr Williams without
20 the matter coming before you.

21 HER HONOUR: Thank you. I think that's about all we need at
22 this stage. Did you wish to say anything, Ms Coombes?

23 MS COOMBES: It was simply that the [REDACTED] will not
24 agree to there being a joint meeting of [REDACTED] as
25 a matter of the [REDACTED]
26 and the [REDACTED] and I have confirmed that
27 just a short time ago, and so one of the issues for the
28 [REDACTED] was simply that they wouldn't accept [REDACTED]

29 [REDACTED]

30 HER HONOUR: That's a matter for the [REDACTED] and not for me.

31 MS COOMBES: Of course.

This document has been redacted for Public Interest Immunity claims made by Victoria Police.
These claims are not yet resolved.

1 HER HONOUR: Are there any other matters that anyone wishes to
2 mention?

3 MR HELIOTIS: No, Your Honour.

4 HER HONOUR: Thank you.

5 - - -

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