

IN THE SUPREME COURT OF VICTORIA  
COURT OF APPEAL  
(CRIMINAL DIVISION)

S APCR 2019 0134

FARUK ORMAN

Appellant

and

THE QUEEN

Respondent

**RESPONDENT'S POSITION ON THE MATTER REFERRED**

Date of document:	24 July 2019
Filed on behalf of:	Respondent
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Melbourne Vic 3000	Reference: 0703326 / J Powell

**Particulars of Conviction and Sentence, Appeal and Referral**

1. On 29 September 2009, the Appellant was convicted by jury verdict of the murder of Victor Peirce. On 25 November 2009 he was sentenced<sup>1</sup> as follows:

Charge on Presentment	Offence	Maximum	Sentence	Cumulation
W01708623				
1.	Murder [common law]	Life imprisonment [s 3 <i>Crimes Act 1958</i> ]	20 years' imprisonment	N/A

<b>Total Effective Sentence:</b>	20 years' imprisonment
<b>Non-Parole Period:</b>	14 years' imprisonment
<b>Section 18(1) (PSD) declaration:</b>	887 days
<b>Section 6AAA Statement:</b>	N/A

<sup>1</sup> *R v Orman* [2009] VSC 538.

2. On 21 September 2010, this Court refused the Appellant's application for leave to appeal his conviction.<sup>2</sup> On 11 February 2011, the High Court refused special leave to appeal.<sup>3</sup>
3. On 4 February 2019, the Appellant filed a petition of mercy with the Attorney-General seeking a referral to this Court pursuant to s 327 of the *Criminal Procedure Act 2009* (Vic) (the Act). That petition was supplemented by submissions dated 26 February 2019, 18 April 2019 and 6 May 2019 (together, the **petition documents**).
4. On 26 June 2019, the Attorney-General granted the petition and referred the Appellant's conviction for this Court's consideration.
5. Accordingly, this Court must hear and determine the matter referred as if it were an appeal: s 327(2) of the Act.

### **Summary of Relevant Facts**

#### **The trial**

6. The prosecution case was that, on 1 May 2002, Andrew Veniamin shot and killed Victor Peirce. The Appellant acted in concert with Veniamin,<sup>4</sup> by stealing a car and driving Veniamin to and from the murder location, with requisite knowledge. The case against the Appellant's co-accused, Vincent Benvenuto, was that Benvenuto had lured Peirce to the murder location, knowing Peirce was to be killed.<sup>5</sup> Benvenuto was acquitted.
7. The case against the Appellant "depended heavily upon the evidence of [REDACTED], a long time drug dealer and convicted murderer."<sup>6</sup> This Court described the Crown relying on [REDACTED] evidence "to a significant extent".<sup>7</sup>
8. The Appellant did not give evidence. He made a no-comment interview. The defence case was that the jury could not exclude as a reasonable possibility that someone else drove the get-away car, most probably [REDACTED].<sup>8</sup>

<sup>2</sup> *Orman v The Queen* [2010] VSCA 246.

<sup>3</sup> *Orman v The Queen* [2011] HCATrans 18.

<sup>4</sup> *R v Orman* [2009] VSC 538, [4] per Weinberg J.

<sup>5</sup> *R v Orman* [2009] VSC 538, [5] per Weinberg J.

<sup>6</sup>

<sup>7</sup>

<sup>8</sup>

## Disputed allegations

9. The Appellant makes a number of allegations in the petition documents and the affidavit of Ms Ruth Parker affirmed on 1 July 2019 and filed in support of the Appellant's application for bail. The Crown does not accept the factual basis for the majority of the allegations.
10. In particular, the Crown disputes that:
- 10.1. the Crown had made an adverse finding as to ██████ truthfulness in relation to his evidence such that he ought not to have been called in the Appellant's trial;<sup>9</sup>
  - 10.2. there was non-disclosure of the fact that Ms Nicola Gobbo had represented ██████ at an examination before the Australian Crime Commission on 6 September 2004;<sup>10</sup>
  - 10.3. the trial judge was misled by the prosecutor in relation to the circumstances in which ██████ gave his evidence;<sup>11</sup> and
  - 10.4. the Appellant was held in conditions that "almost certainly amounted to torture".<sup>12</sup>

### There was no relevant adverse finding about ██████

11. On 23 June 2006, prosecutors and police discussed the veracity of potential evidence from ██████ in relation to the murders of Moran and Barbaro. They determined that at that time they had no interest in his evidence in relation to that matter. The prosecutors also acknowledged ██████ potential as a reliable witness in relation to other matters, considering that if he gave evidence in relation to other matters, he would be entitled to a discount.
12. The decision not to obtain evidence from ██████ at that time was based on what ██████ was telling police about his own knowledge and involvement, in light of the other available evidence. It was not a decision about ██████ reliability generally.

<sup>9</sup> See paragraph 34 (and footnote 31) to the affidavit of Ms Parker affirmed on 1 July 2019 and filed in support of the Appellant's application for bail (the **Parker Affidavit**).

<sup>10</sup> Paragraph 36 of the Parker Affidavit.

<sup>11</sup> Pages 2, 29 and 30 of the Appellant's submission dated 18 April 2019 in support of his petition.

<sup>12</sup> Page 1 (see also 21, 22 and 32) of the Appellant's submission dated 18 April 2019 in support of his petition.

13. It was specifically contemplated that [REDACTED] could give evidence in relation to matters other than the Moran and Barbaro murders. The prosecution did not form a view that [REDACTED] was not a witness of truth in relation to the murder of Peirce.
14. The decision of a Crown Prosecutor is not reviewable and has no impact on the outcome of this appeal. In any event, the Crown's assessment of [REDACTED] credibility as a witness in relation to the murder of Peirce was no doubt informed by the fact that the "circumstantial evidence provided powerful support for significant aspects of his evidence" and that "when [REDACTED] approached police and made his first statement, he did not know of any of the covertly recorded telephone conversations and so, as the prosecutor put in his final address to the jury, if he were lying he would have been taking a significant risk of being caught in the lie".<sup>13</sup>

The Australian Crime Commission transcript was produced

15. On 29 October 2007, 3 pages of transcript of [REDACTED] examination at the Australian Crime Commission on 6 September 2004 was produced to the Appellant. It was redacted and made no reference to Ms Gobbo appearing for [REDACTED].<sup>14</sup>
16. On 17 March 2008 (the fourth day of the committal proceedings), further materials from the Australian Crime Commission were produced to the Appellant.
17. On 18 May 2009<sup>15</sup> (3 months prior to the Appellant's trial), 71 pages of transcript of [REDACTED] examination at the Australian Crime Commission on 6 September 2004 was produced to the Appellant during the committal in relation to the murder of Paul Kallipolitis, and tendered by him.<sup>16</sup> The Appellant was represented at that committal by Mr Robert Richter QC, instructed by Mr Alastair Grigor. The transcript recorded that Ms Gobbo appeared for [REDACTED] and that Mr Geoff Horgan QC appeared as counsel assisting the Examiner.
18. There was no failure to disclose those facts.

<sup>13</sup> [REDACTED]

<sup>14</sup> Supporting Materials Item 1.

<sup>15</sup> Cf paragraph 36 of the Parker Affidavit in which it is asserted that material was provided in 2013.

<sup>16</sup> Supporting Materials Items 2 and 3.

The learned trial judge was not misled

19. On 2 September 2009 when discussing the proposed plan for [REDACTED] evidence (which was given by remote facility), the trial prosecutor confirmed that “the plan is to have an independent police officer, it has been indicated, present with him who will not have been part of this investigation.”<sup>17</sup>
20. It is now said that the Court was misled by reason of that submission, particularly because the first [REDACTED] statement (as defined in paragraph 30 below) was taken by Detective Senior Constable L’Estrange. The fact that Detective Senior Constable L’Estrange took the first [REDACTED] statement was known to the Court and the parties; it formed part of the depositions. The learned prosecutor also confirmed that he was “known to the witness”.<sup>18</sup>
21. The Court was not misled. The manner in which [REDACTED] gave his evidence was discussed and the subject of judicial instruction.
22. Detective Senior Constable L’Estrange then a member of the Homicide Squad, and a Detective Senior Constable Murphy a member of the drug squad, were outside the room when [REDACTED] gave his evidence. Both members undertook to the trial judge in the presence of all counsel that [REDACTED] would be alone when he gave his evidence.<sup>19</sup> Ultimately, nobody was present in the room with [REDACTED] when he gave his evidence.<sup>20</sup>

Allegations of torture

23. It was (and is) for Corrections Victoria to manage the conditions of the Appellant’s custody.
24. The Crown accepts that Ms Gobbo reported to Victoria Police that the Appellant was obsessive about cleanliness and that if he is isolated he will not cope.<sup>21</sup> The Crown is not in possession of any evidence to suggest that this information was passed on to Corrections Victoria or that Corrections Victoria acted on it.

<sup>17</sup> Trial transcript 2 September 2009 at 678.22-24.

<sup>18</sup> Trial transcript 2 September 2009 at 775.

<sup>19</sup> Trial transcript 3 September 2009 at 828.2 – 830.4.

<sup>20</sup> Trial transcript 3 September 2009 at 788.15-16 and 4 September 2009 at 928.10 – 929.26.

<sup>21</sup> Supporting Materials Item 4.

## This appeal

25. Based on the materials in its possession,<sup>22</sup> including materials provided by the Chief Commissioner of Victoria Police to the Royal Commission into the Management of Police Informants, for the purposes of this appeal the Crown makes the following factual concessions.
26. From as early as October 2002,<sup>23</sup> Ms Gobbo represented [REDACTED]. She continued to represent him from time to time until 8 August 2008.<sup>24</sup>
27. On 6 September 2004, Ms Gobbo appeared for [REDACTED] at an examination conducted by an Examiner of the Australian Crime Commission. [REDACTED] answered some questions about the Appellant during that examination.<sup>25</sup>
28. On 16 September 2005, Ms Gobbo was registered by Victoria Police as a police informer.
29. On 18 July 2006, Ms Gobbo reviewed a number of statements [REDACTED] was about to sign implicating a number of people in relation to various matters. Those statements included a draft statement implicating the Appellant in the murder of Peirce.<sup>26</sup>
30. On 19 July 2006, [REDACTED] signed a number of statements, one of them implicating the Appellant in relation to the murder of Peirce (the **first [REDACTED] statement**).
31. On 11 October 2006, Ms Gobbo was engaged by the Appellant to represent him in relation to charges he was then facing in Queensland.<sup>27</sup> She continued to represent him from time to time until at least 10 December 2008.<sup>28</sup>
32. On 29 May 2007, [REDACTED] signed a further statement implicating the Appellant in relation to the murder of Peirce. In that statement, [REDACTED] provided an explanation to various intercepted conversations, and more specific evidence about the murder (the **second**

<sup>22</sup> The Crown is yet to receive any materials from Victoria Police in compliance with this Court's orders made on 10 July 2019 pursuant to s 317 of the Act. Since 10 July 2019, the Crown has, however, received certain other limited material from Victoria Police and has identified further information which has enabled the making of these factual concessions.

<sup>23</sup> On 9 October 2002, Ms Gobbo appeared for [REDACTED] in the Melbourne Magistrates' Court on an application to vary his bail.

<sup>24</sup> Supporting Materials Item 5.

<sup>25</sup> Supporting Materials Item 2. See, in particular, pages 11 – 13.

<sup>26</sup> Supporting Materials Item 6.

<sup>27</sup> Supporting Materials Item 7.

<sup>28</sup> Transcript of mention before Cummins J.

█████ statement). The Crown is not in possession of any evidence to suggest that Ms Gobbo was directly involved in relation to the making of that statement and the Crown does not concede she was involved.

33. On 22 June 2007, the Appellant was arrested and charged with the murder of Peirce. On his arrest he requested to speak with Ms Gobbo.<sup>29</sup> He has been in custody since that date.
34. On 26 June 2007, Ms Gobbo reported to Victoria Police that she intended to represent the Appellant.<sup>30</sup>
35. On 31 August 2007, the brief of evidence was served on the Appellant's then solicitors (Galbally Rolfe). It contained the first and second █████ statements.
36. On 24 September 2007, Ms Gobbo reported to Victoria Police that she had read the brief. She acknowledged that she was conflicted and would not appear at the Appellant's committal hearing. She reported to Victoria Police that she would do preparation work in the background but "that's it".<sup>31</sup>
37. On 3 October 2007, Ms Gobbo reported to Victoria Police that she had told Brian Rolfe (of Galbally Rolfe) that she had acted for █████ in the past and now could not act [for the Appellant].<sup>32</sup> The Crown is not in possession of any evidence to suggest that she disclosed her involvement in the making of the first █████ statement.
38. On 11 October 2007, Ms Gobbo reported to Victoria Police that the Appellant's defence would simply be that "we are not there" and that without the █████ statements the prosecution could not prove he [the Appellant] was there.<sup>33</sup>
39. On 29 October 2007, Ms Gobbo appeared for the Appellant at a special mention in the Magistrates' Court regarding return of summonses served on the Australian Crime Commission and Victoria Police.<sup>34</sup>
40. On 5 November 2007, Ms Gobbo reported to Victoria Police that she was aware she could not represent the Appellant at any trial because of her conflict in representing █████. She

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<sup>29</sup> Supporting Materials Item 8.

<sup>30</sup> Supporting Materials Item 9.

<sup>31</sup> Supporting Materials Item 10.

<sup>32</sup> Supporting Materials Item 11.

<sup>33</sup> Supporting Materials Item 12.

<sup>34</sup> Supporting Materials Item 13.



further reported that both the person funding the Appellant's defence and Brian Rolfe were aware of that.<sup>35</sup>

41. On 9 November 2007, Ms Gobbo reported to Victoria Police that [REDACTED] was considering not giving evidence against the Appellant and returning to court to be resentenced. Ms Gobbo encouraged Victoria Police to visit him to "put him straight", otherwise he was not going to give evidence. Ms Gobbo was told the information would be passed on to a more senior member of Victoria Police.<sup>36</sup>
42. On 14 November 2007, members of Victoria Police visited [REDACTED] at Barwon prison in relation to his "current state of mind".<sup>37</sup>
43. On 16 November 2007, [REDACTED] telephoned a member of Victoria Police and said that he ([REDACTED]) wanted to withdraw his evidence. [REDACTED] stated that he would tell Justice King that everything in statements is true and correct but that he will not cooperate due to the way he has been treated in the prison system.<sup>38</sup>
44. On 19 November 2007, Ms Gobbo appeared for the Appellant at a special mention in the Magistrates' Court regarding the return of summonses served on Victoria Police.<sup>39</sup>
45. On 29 November 2007, members of Victoria Police again visited [REDACTED] at Barwon prison in relation to his "perceived security risks".<sup>40</sup>
46. On 12 March 2008, [REDACTED] was cross-examined on the second day of the Appellant's committal proceeding. The Appellant was represented by Mr Richter QC, instructed by Mr Grigor. Ms Gobbo did not appear.
47. On 12 March 2008, Ms Gobbo reported to Victoria Police that Mr Richter QC was serving subpoenas on the Australian Crime Commission for transcript of [REDACTED] examination and that the subpoenas had to be fought because the transcript contained 30 to 40 lies and contradictions to his statement.<sup>41</sup>

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<sup>35</sup> Supporting Materials Item 14.

<sup>36</sup> Supporting Materials Item 15.

<sup>37</sup> Supporting Materials Item 16.

<sup>38</sup> Supporting Materials Item 17.

<sup>39</sup> Supporting Materials Item 18.

<sup>40</sup> Supporting Materials Item 19.

<sup>41</sup> Supporting Materials Item 20.



48. On 17 March 2008, [REDACTED] signed a third statement implicating the Appellant in the murder of Peirce (the **third [REDACTED] statement**). The Crown is not in possession of any evidence to suggest that Ms Gobbo was directly involved in relation to the making of that statement and the Crown does not concede she was involved.
49. On 31 March 2008, the Appellant was committed to stand trial for the murder of Peirce.
50. On 24 November 2008, [REDACTED] signed a fourth statement in relation to the murder of Peirce, implicating Benvenuto (the **fourth [REDACTED] statement**). The Crown is not in possession of any evidence to suggest that Ms Gobbo was directly involved in relation to the making of that statement and the Crown does not concede she was involved.
51. On 12 January 2009, Ms Gobbo was deregistered as a police informer.
52. On 26 August 2009, a jury was empanelled in the Appellant's trial on the murder of Peirce. [REDACTED] gave evidence. The Appellant was represented by Mr Richter QC and Mr Christopher Boyce, instructed by Mr Grigor.<sup>42</sup>
53. On 29 September 2009, the Appellant was convicted.

**The Respondent's position on the matter referred**

54. Section 276 of the Act addresses the circumstances in which the Court must allow an appeal against conviction. Pursuant to s 276(1)(c), one such circumstance is where "for any other reason there has been a substantial miscarriage of justice."<sup>43</sup>
55. In *United States of America v Marshank* (1991) 777 F Supp 1507, the District Court in California considered not dissimilar<sup>44</sup> facts. In that case, Marshank's former lawyer had an ongoing relationship with Government agencies and procured testimonial evidence from three witnesses (all of whom were also former clients of the lawyer) against his former client (Marshank).

<sup>42</sup> See, generally, *R v Orman* [2009] VSC 538.

<sup>43</sup> See, generally, *Baini v The Queen* (2012) 246 CLR 469, 103-104 [25]-[26], French CJ, Gummow, Hayne and Crennan JJ.

<sup>44</sup> Although arguably more egregious: Minkin (Marshank's his former attorney) not only marshalled evidence against Marshank (in the form of three of Minkin's other clients), but also personally gave evidence before a Grand Jury against him.

56. District Judge Patel dismissed the indictment filed against Marshank on a number of bases, but relevantly because the conduct of the authorities breached his Fifth Amendment right to “due process”, including because:<sup>45</sup>

The government’s decision to use Ron Minkin and Minkin’s clients to develop a case against Steven Marshank created a conflict of interest between Minkin and Marshank. The government was aware of this conflict and took advantage of it. The government did nothing to alert either the court or the defendant to the conflict of interest. It did nothing to alert Minkin, who was apparently oblivious, to any conflict. While the government may have no obligation to caution defense counsel against straying from the ethical path, it is not entitled to take advantage of conflicts of interest of which the defendant and the court are unaware.

57. Patel J also relied on the authority’s efforts to withhold information about his lawyer’s conflict from Marshank.<sup>46</sup>

58. Victoria Police alerted Ms Gobbo to her conflict,<sup>47</sup> and certain aspects of her conduct in representing ██████ were known to the Appellant,<sup>48</sup> nevertheless her conduct in pursuing the presentation of the principal evidence against her own client goes beyond a mere conflict to the nature of her obligations to the Appellant and the Court.<sup>49</sup>

59. As to those duties, the High Court observed in *Tuckiar v R* (1934) 52 CLR 335 at 347 that “Our system of administering justice necessarily imposes upon those who practice advocacy duties which have no analogies, and the system cannot dispense with their strict observance.”

60. At a time when she was engaged to act on behalf of the Appellant, on 9 November 2007<sup>50</sup> Ms Gobbo improperly took active steps to ensure that ██████, the principal Crown witness, gave evidence against the Appellant. This conduct forms the basis of the Crown concession.

<sup>45</sup> 777 F Supp 1507 at 1519.

<sup>46</sup> 777 F Supp 1507 at 1520.

<sup>47</sup> As set out in paragraph [36] above.

<sup>48</sup> In particular her representation of ██████ at the Australia Crime Commission: see paragraph [17] above.

Further, the fact that Ms Gobbo had represented ██████ in the past was a matter of public record, see: ██████

██████████. See, also, Supporting Material Item 21.

<sup>49</sup> See *Tuckiar v R* (1934) 52 CLR 335 at 346.

<sup>50</sup> As set out in paragraph [41] above.

61. As a result of Ms Gobbo's conduct on 9 November 2007, there was a substantial miscarriage of justice within the meaning of s 276(1)(c). The Crown's submission is that the appeal must therefore be allowed.

### **Disposing of the appeal**

62. If the Court accepts the Crown's position, it falls for the Court to determine whether to order a new trial or enter a judgment of acquittal: ss 277(1)(a) and (b) of the Act. The exercise of that discretionary power involves a two stage test: considering first whether there is admissible evidence to justify a conviction and, if so, whether there are any circumstances that might nevertheless render it unjust to order a retrial.

63. In *DPP (Nauru) v Fowler* (1984) 154 CLR 627 at 630 [5], the Court (Gibbs CJ, Murphy, Wilson, Deane and Dawson JJ) said:

... the court should first consider whether the admissible evidence given at the original trial was sufficiently cogent to justify a conviction, for if it was not it would be wrong by making an order for a new trial to give the prosecution an opportunity to supplement a defective case. ... Then the court must take into account any circumstances that might render it unjust to the accused to make him stand trial again, remembering however that the public interest in the proper administration of justice must be considered as well as the interests of the individual accused.

64. The circumstances in which courts have entered verdicts of acquittal (notwithstanding the availability of sufficiently cogent evidence) include<sup>51</sup> the period of time since the events giving rise to the charges,<sup>52</sup> whether the Appellant would have served the sentence imposed,<sup>53</sup> and the position taken by the Crown.<sup>54</sup>

65. The case at trial depended heavily on the evidence of [REDACTED].<sup>55</sup> That evidence is, in theory, still available. The Crown does not concede that [REDACTED] evidence is inadmissible. On a retrial the Appellant would have available to him arguments about its admissibility,

<sup>51</sup> See *Dyers v R* (2002) 210 CLR 285 at 314-315, [82]-[83] Kirby J (dissenting as to the result) for other such circumstances.

<sup>52</sup> *Parker v The Queen* (1997) 186 CLR 494 at 520, 538, Kirby J.

<sup>53</sup> *Parker v The Queen* (1997) 186 CLR 494 at 520, Kirby J.

<sup>54</sup> *Griffiths v The Queen* (1994) 125 ALR 545 at 551, Brennan, Dawson and Gaudron JJ and 552, Deane and Toohey JJ.

<sup>55</sup> [REDACTED]

however those are matters for a trial judge to determine.<sup>56</sup> If admitted, [REDACTED] evidence is sufficiently cogent to support a conviction.

66. Axiomatically, it is desirable that the Appellant's guilt or innocence be determined by a jury rather than an appellate court.<sup>57</sup>

67. The discretionary power to enter a judgment of acquittal should be exercised with caution and only in exceptional circumstances.<sup>58</sup> However, as Winneke P observed in *The Queen v Bartlett*,<sup>59</sup> "it should not be thought ... that because there is evidence upon which the applicant might be convicted on a re-trial, a new trial should be ordered as a matter of course."

68. In this case, there has been significant time since the events the subject of the charge took place. Further, the Appellant has already served a significant portion of his non-parole period and by the time any retrial is heard, subject to any grant of bail, he will have served more.<sup>60</sup> In those circumstances, the Crown concedes that it would be unjust to order a retrial.

### Orders

69. It is respectfully submitted that the following orders be made:

- (i) The appeal be allowed: s 274.
- (ii) The conviction for murder be set aside: s 277(1).
- (iii) A judgment of acquittal be entered for the offence of murder: s 277(1)(b).

70. Noting that [REDACTED] is named in the learned trial judge's reasons for sentence,<sup>61</sup> in this Court's reasons for refusing the Appellant's application for leave to appeal,<sup>62</sup> and during

<sup>56</sup> See *Dyers v The Queen* (2002) 210 CLR 285 at 297 [23], Gaudron and Hayne JJ and 314, [81] Kirby J (dissenting as to the result).

<sup>57</sup> *R v Anderson* (1991) 53 A Crim R 421 at 453 (Gleeson CJ). See also *R v Taufahema* (2007) 228 CLR 232 at 255 [51] (Gummow, Hayne, Heydon and Crennan JJ).

<sup>58</sup> *R v ALH* (2003) 6 VR 276 at 280, [18] Callaway JA. The power was said to require "compelling" reasons in *Parker v The Queen* (1997) 186 CLR 494 at 519, Dawson, Toohey, McHugh JJ.

<sup>59</sup> *R v Bartlett* [1996] 2 VR 687 at 699, Charles JA and Southwell AJA agreeing.

<sup>60</sup> His non-parole period is due to expire in June 2021.

<sup>61</sup> [REDACTED]

<sup>62</sup> [REDACTED]

his application for special leave,<sup>63</sup> the Crown seeks a direction pursuant to r 1.11(4) of the *Supreme Court (Criminal Procedure) Rules 2017* that the following documents be available for public inspection:

70.1. The Respondent's Position on the Matter Referred; and

70.2. The Respondent's list of Authorities and Materials.

71. Noting that there is an extant order in relation to the publication of certain source materials in this matter, the Crown would oppose any application for access to the list of Supporting Materials and the supporting materials themselves.

**DATED: 24 July 2019**

**K E Judd QC**  
**Director of Public Prosecutions**

**R J Sharp**  
**Counsel for the Respondent**

IN THE SUPREME COURT OF VICTORIA  
COURT OF APPEAL  
(CRIMINAL DIVISION)

S APCR 2019 0134

FARUK ORMAN

Appellant

and

THE QUEEN

Respondent

**RESPONDENT'S LIST OF AUTHORITIES AND MATERIALS**

**Authorities**

1. *R v Orman* [2009] VSC 538
2. *Orman v The Queen* [2010] VSCA 246
3. *Orman v The Queen* [2011] HCATrans 18
4. *United States of America v Marshank* (1991) 777 F Supp 1507
5. *Tuckiar v R* (1934) 52 CLR 335
6. *Baini v The Queen* (2012) 246 CLR 469
7. *DPP (Nauru) v Fowler* (1984) 154 CLR 627
8. *Dyers v The Queen* (2002) 210 CLR 285
9. *Parker v The Queen* (1997) 186 CLR 494
10. *Griffiths v The Queen* (1994) 125 ALR 545
11. *R v Anderson* (1991) 53 A Crim R 421
12. *R v ALH* (2003) 6 VR 276
13. *R v Bartlett* [1996] 2 VR 687

**Materials**

1. Statement of [REDACTED] dated 19 July 2006
2. Statement of [REDACTED] dated 29 May 2007

3. Statement of [REDACTED] dated 17 March 2008
4. Statement of [REDACTED] dated 24 November 2008
5. Extracts of the transcript of hearing before Weinberg J on:
  - a. 2 September 2009
  - b. 3 September 2009, and
  - c. 4 September 2009
6. Transcript of Section 5 hearing before Cummins J on 10 December 2008 in *R v Orman and Benvenuto*



