
TRANSCRIPT OF PROCEEDINGS

SUPREME COURT

CRIMINAL JURISDICTION

MELBOURNE

TUESDAY 8 AUGUST 2006

BEFORE THE HONOURABLE JUSTICE KING

THE QUEEN v. CARL ANTHONY WILLIAMS

M E N T I O N

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

MR P. FARIS QC with MR S. TYRRELL appeared on behalf of the Accused.

MR D. PARSONS SC with MR B. DENNIS appeared on behalf of the Chief Commission of Police.

MR E. LORKIN appeared on behalf of the Australia Crimes Commission.

MS D. COOMBES appeared on behalf of Corrections Victoria.

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5 system or transmitted without prior written permission of the
6 Authorised Officer.

7 (Short adjournment pending arrival of Mr Faris.)

8 MR FARIS: Your Honour, I apologise for being late.

9 HER HONOUR: No, that's fine. May I have the material, please?

10 Now, I went through all of these last night and I have
11 marked some passages where I disagree with material not
12 being handed over - they are small in number, they are
13 particular parts - and there are others where I believe,
14 on the basis of the argument that's been put, other
15 material should in fact come out, so they're all marked,
16 and I will hand them down to you.

17 MR PARSONS: Thank you, Your Honour. Thank you.

18 HER HONOUR: The overall principle, though, is that in relation
19 to the public immunity claim of ongoing investigations I
20 certainly do uphold it. They are serious enough to
21 warrant the matters being investigated.

22 Now, that's the consequences that flow from that.
23 I must say I didn't see anything about informers that
24 concerned me in relation to it. That probably deals with
25 your issue, Mr Parsons.

26 MR PARSONS: Yes, it does, thanks, Your Honour.

27 HER HONOUR: Thank you.

28 MR PARSONS: All we've got to do now, I think, is get that
29 second medical file at some stage, and we can make
30 arrangements with Your Honour's Associate with regard to
31 that.

32 HER HONOUR: Have you got instructions to act on behalf of [REDACTED]

33 [REDACTED]

34 MR PARSONS: No, we don't, Your Honour, and I didn't ever

1 expect we were going to seek them. All I understood we
2 were going to do is ring up Mr Valos and ensure that he
3 was aware of what had happened. As I recall Your Honour
4 reading out the letter yesterday, he effectively set out
5 the matters that he wanted to set out on behalf of [REDACTED]
6 [REDACTED] and we presumed that Your Honour would simply
7 read the file, and - - -

8 HER HONOUR: I haven't read any of those files as yet.

9 MR PARSONS: No - in due course - but given he's retained by [REDACTED]
10 [REDACTED] and apparently happy with that, we don't want to
11 interfere with that, we're quite happy that he should act
12 on his behalf, but we just wanted to alert him to what in
13 fact was happening and after we've read the two files,
14 when we get them, we've read one and we don't anticipate
15 there's anything in it that will cause any problems in
16 the sense that it will be a relevance issue.

17 HER HONOUR: Is that [REDACTED]

18 MR PARSONS: I've been talking about the Queen this morning,
19 the royal plural.

20 HER HONOUR: The royal "We", yes.

21 MR PARSONS: Yes.

22 [REDACTED]

23 HER HONOUR: Well, I must admit I've read the medical file of
24 [REDACTED] and there was very little in it that I
25 thought bore any relevance to the issues that were going
26 to be determined. All right, thank you.

27 Now Mr Faris, have you had any success in
28 discussing things with Ms Gobbo about appearing?

29 MR FARIS: I've had a number of discussions with her and I
30 emailed a memorandum to her and the relevant parts of
31 yesterday's transcript. She emailed me back last night

1 to say that, yesterday afternoon before she got the
2 transcript and my material she'd been to the Ethics
3 Committee and they'd cleared her, she said - I think, I'm
4 trying to put it as delicately as I can. Sometimes the
5 Ethics Committee doesn't understand the full
6 ramifications of a matter and I've found sometimes when
7 I'm putting submissions for myself I'm really arguing my
8 own case rather than - - -

9 HER HONOUR: That's usually the role of counsel, isn't it?

10 MR FARIS: Yes, well it's a bit hard to slip out of it
11 sometimes and they obviously didn't have Your Honour's
12 remarks or my comments yesterday. But be that as it may,
13 she ended up by saying that she was speaking to Mr Valos
14 who was her instructing solicitor, Mr Valos seems to be,
15 today about who was going to represent [REDACTED] and she
16 would let me know. My response to that was if she
17 proposed to go ahead we would issue proceedings probably
18 injunctive proceedings returnable before Your Honour
19 tomorrow morning with a view to having that heard prior
20 to the plea to prevent her appearing but I rather got the
21 impression that she may not appear.

22 HER HONOUR: I must admit on reflection on it last night I was
23 a little concerned about basically pre-empting what the
24 Ethics Committee may or may not do. I do think it's an
25 ethical consideration rather than anything else, Mr
26 Faris.

27 MR FARIS: Your Honour, the Ethics Committee acts upon what
28 they've got. I haven't had an opportunity of putting the
29 whole facts to the Ethics Committee.

30 HER HONOUR: I got your client's letter yesterday too, it
31 arrived after we left.

1 MR FARIS: I mean, another alternative - I don't think I've
2 ever complained to the Ethics Committee about anyone but
3 I could get my client, he could compose a complaint to
4 the Ethics Committee so that his point of view is put,
5 put strongly, but I don't regard - I doubt that in the
6 time she had available she would have had a full Ethics
7 Committee hearing, she's probably just gone to see a
8 senior member of the Ethics Committee who's given her a
9 verbal ruling on what she's told him. Now I don't think
10 that's - it's not good enough.

11 HER HONOUR: It's the same with, with **Solicitor 2**, I didn't
12 - I indicated to **█** that I thought there were problems
13 but what I said was that **█** should seek a ruling of **█**
14 committee and that's what **█** obtained.

15 MR FARIS: Yes, well there's no - I don't think there's a
16 ruling of the committee here either. Time is too short.
17 If it was done yesterday afternoon and she would have
18 seen - - -

19 HER HONOUR: They wouldn't have been - probably been able to
20 convene.

21 MR FARIS: No. And they haven't got the material as it were
22 and the full explanation so - - -

23 HER HONOUR: I do think there should be a proper hearing,
24 proper determination by the Ethics Committee in this
25 matter.

26 MR FARIS: Yes. With respect, I agree with that. I think that
27 if it's going to be determined by that it's got to be
28 properly determined, not just a sort of a kerb side
29 opinion, as we so often have to get in the - - -

30 HER HONOUR: Well, time often is a constraint on that.

31 MR FARIS: But I'll consider - I'll see what she says. If

1 she's going ahead with it I'll consider my position.

2 What I may do is lodge a complaint with the Ethics

3 Committee on behalf of my client asking for a full

4 hearing but that would then - - -

5 HER HONOUR: It would effectively stop me hearing the plea.

6 MR FARIS: Tomorrow, yes. Until that was resolved.

7 HER HONOUR: It's a possibility that - which really would be a

8 terrible waste of court time.

9 MR FARIS: It would but this is not a problem of my client's
10 making.

11 HER HONOUR: No, I'm not suggesting it is.

12 MR FARIS: And he's outraged by it and I have some sympathy
13 with him in his - because a lot of it's about perception.

14 I mean, I think she says, she doesn't know anything that
15 matters but it's a perception issue.

16 HER HONOUR: Well, I think most applications of this nature are
17 about perception.

18 MR FARIS: Yes, and I've got no material to say that she's done
19 anything wrong but - you know, but it's a perception
20 issue and I just don't - it's arguably not appropriate
21 to (indistinct) - - -

22 HER HONOUR: I'm just of the old school, if there's a doubt,
23 out.

24 MR FARIS: Yes. Out.

25 HER HONOUR: Out, yes, in terms of that. All right, thank you
26 Mr Faris.

27 MR FARIS: But perhaps if I get word I'll let Your Honour's
28 associate and the Crown know I will let them know as soon
29 as I know, and I will then make up my mind what I'm
30 doing.

31 HER HONOUR: Very well, thank you. Mr Horgan, having read the

1 material last night I thought equally about the issue you
2 raised about whether or not this was fishing. I am not
3 sure what you have seen in the way of the material. Have
4 you seen the material that is going to be handed over?
5 Have you had an opportunity to look at it?

6 MR HORGAN: No, I haven't, Your Honour, no. I don't think so,
7 Your Honour, no. I've seen a lot of material and what
8 I've seen - but I don't think I have.

9 HER HONOUR: There are some recordings of conversations between
10 the police and [REDACTED] That is as distinct from the
11 statements. Have you seen those?

12 MR HORGAN: I've got them. I haven't gone through them yet. I
13 was reading the transcripts this morning.

14 HER HONOUR: No, well I had the pleasure of reading them last
15 night, so I am obviously one step ahead of you.

16 MR HORGAN: Yes.

17 HER HONOUR: In relation to that, there are a number of
18 occasions when [REDACTED] makes it clear that what he's
19 going to be telling them will be different to what [REDACTED]
20 [REDACTED] tells them, or has told them. Now I, of course,
21 haven't gone through the exercise of sitting down and
22 comparing statements, simply because I wouldn't have had
23 the time anyway, but that to me is an indication that
24 this isn't just a fishing expedition. There is a real
25 likelihood that the material may have some relevance in
26 terms of that, because if you have two persons who are
27 being called by the Crown, who are saying different
28 things about particular incidents then that surely must
29 go to the credit of those persons, in terms of the
30 relevance.

31 MR HORGAN: Well I understand Your Honour is saying that, but

1 it is speculative. It has to be speculative. There can
2 be no doubt about that, because we just don't know.

3 HER HONOUR: Mr Horgan, every subpoena issued on this sort of
4 basis has to be speculative to a degree.

5 MR HORGAN: Well this is not a subpoena question though. This
6 is really Your Honour saying, "I would accede to a stay
7 application of a trial".

8 HER HONOUR: No, I am not saying that at all. You were raising
9 the issue yesterday about whether or not these subpoenas
10 were fishing.

11 MR HORGAN: I am sorry.

12 HER HONOUR: No, I am not looking at that issue at all.

13 MR HORGAN: Sorry, I misunderstood you.

14 HER HONOUR: I am dealing only with the issue you raised
15 yesterday that these have to be fishing, because they
16 don't know what is contained in them, and I am indicating
17 to you that having read the material last night there are
18 indications from ██████████ where he says, "You won't
19 want to hear from me on this because ██████████ is wrong.
20 That is just not true". So what I am indicating is that
21 in terms of on the cards in the fishing aspect of it it
22 appears, from what I have read so far, that that
23 shouldn't be a real issue.

24 MR HORGAN: Yes. Well I accept that, Your Honour, I don't have
25 anything to say about that.

26 HER HONOUR: Well I just thought I would pass that information
27 on.

28 MR HORGAN: Yes, all right, thank you. Thank you, Your Honour.
29 Sorry, I misunderstood Your Honour. I thought Your
30 Honour was averting to - - -

31 HER HONOUR: No, I am not about to start the stay application.

1 MR HORGAN: - - - the issue that concerns me.

2 HER HONOUR: No, not at all, no. Just referring to that remark
3 that you raised in court yesterday. All right, now we
4 don't have to do anything else until Monday morning?

5 MR HORGAN: Correct, Your Honour.

6 HER HONOUR: I have put off the jury in respect of this. It
7 doesn't seem to me there is any prospect that we will be
8 commencing with the jury on the 17th.

9 MR HORGAN: If Your Honour pleases.

10 HER HONOUR: Now is there anything else I can usefully do in
11 respect of this?

12 MR HORGAN: No, I don't think so, Your Honour.

13 MR FARIS: No, thank you, Your Honour.

14 HER HONOUR: If you could let my associate know what is
15 happening on the conflict.

16 MR HORGAN: I will keep everybody informed.

17 HER HONOUR: Thank you very much. All right, I will let you go
18 and I will deal with the next matter.

19 - - -
20