
TRANSCRIPT OF PROCEEDINGS

SUPREME COURT OF VICTORIA

CRIMINAL JURISDICTION

MELBOURNE

MONDAY 7 AUGUST 2005

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 Commissioner of Police.

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

MS D. COOMBES appeared on behalf of Corrections Victoria

1 MR FARIS: We have a cast of thousands.

2 HER HONOUR: I was about to use those very words, Mr Faris.

3 MR FARIS: The issues before the court this minute, as I see
4 them, are these, in no particular order - - -

5 HER HONOUR: Can I ask, before you go on to that, you were
6 going to let me know about the length of trial.

7 MR FARIS: I thought my junior had done that.

8 MR TYRRELL: I sent off an e-mail to your associate, it was
9 coupled with other emails, that we stick with six weeks to
10 ten weeks.

11 HER HONOUR: Okay, and the process by which we were going to
12 empanel the jury, the two day process?

13 MR TYRRELL: Yes.

14 HER HONOUR: That was fine.

15 MR TYRRELL: Yes.

16 HER HONOUR: As you say, in no particular order, Mr Faris.

17 MR FARIS: In no particular order. There is a letter apparently
18 directly from my client to Your Honour about Ms Gobbo, I
19 don't know whether Your Honour has got that.

20 HER HONOUR: No, I have had a number from him but not that.

21 MR FARIS: Okay, all right. Similarly, there are a number of
22 subpoenas.

23 HER HONOUR: I have indicated to your client that it really
24 isn't appropriate to write to me any longer. He wrote to
25 me when he did not have an instructing solicitor and
26 accordingly I would take them but it is really not
27 appropriate now that he has all those involved.

28 MR FARIS: I will reinforce that, it was done without my
29 knowledge.

30 HER HONOUR: I would expect it was, Mr Faris.

31 MR FARIS: I will come back to that. That is that, the

1 subpoena, there is a bias application, another bias
2 application. There is a stay application which I have
3 distributed outlining argument which I take it Your Honour
4 does have. I think that is it at the moment.

5 If I can just dispose of some of them. My client has
6 raised the issue and I have provided - he is supposed to
7 have sent a letter to Your Honour but I have provided a
8 copy of that to the counsel. He is troubled by the fact
9 that Ms Gobbo is apparently appearing for ^{Mr Thomas} on
10 Wednesday, on the plea for ^{Mr Thomas}. I still don't have
11 full instructions but as I understand what I am told at the
12 moment, she has appeared for Mokbel, longstanding counsel
13 for Mokbel, she has appeared for Williams as junior to
14 Heliotis QC in the most recent drug charges when Carl
15 Williams and George Williams his father were both charged
16 and she and Heliotis appeared at the committal for both of
17 them, as I understand it. She has appeared for Williams'
18 mother before an organization which does not exist.

19 HER HONOUR: I can have a guess which one it might be.

20 MR FARIS: Consequently the client says that she is conflicted
21 out of it.

22 HER HONOUR: Can I say I would have, when I heard Ms Gobbo was
23 appearing I had much the same view, that I wondered how she
24 was able to appear but I have been assured that there was
25 no conflict, so my problem is I can't run that for counsel.

26 MR FARIS: I understand that.

27 HER HONOUR: I had much the same reaction because she certainly
28 couldn't have appeared in the trial and I made that very
29 clear in mentions we had had earlier when it was announced
30 that she was going to be Mr Lovitt's junior for ^{Mr Thomas}
31 and I indicated that would just not be possible.

1 MR FARIS: The difficulty my client has got, and it would seem
2 to be not unreasonable, is that she is now appearing for
3 the man who is going to give evidence against him with a
4 view to getting him convicted of two murders.

5 HER HONOUR: I think it is a problem.

6 MR FARIS: That's a big call. I spoke to her this morning.
7 Since then I have got further detailed instructions from my
8 client's father. I didn't have those instructions when I
9 spoke to spoke her and I simply said to her I would raise
10 it with Your Honour and I would let her know. But I think
11 my position now, and I will contact her when I get out of
12 court, and say that our position now is that it is our view
13 that she is conflicted out.

14 HER HONOUR: On its face, on what you say, it would appear to
15 be a conflict that would cause problems.

16 MR FARIS: I need to put that on affidavit and get - - -

17 HER HONOUR: Perhaps if you just discuss it with Ms Gobbo and
18 she can get a ruling from the Ethics Committee. I mean,
19 there are very easy solutions to these things.

20 MR FARIS: All right. The alternative is that, if that can't be
21 resolved in that way and she stays, we would have to apply,
22 I think, I think every application I have made so far in
23 this trial has been novel to me in my limbed experience in
24 criminal law, but I think on Wednesday we would have to
25 make some sort of application to Your Honour that may well
26 be return of a declaration or injunction or something like
27 that, to say Your Honour is seized of the matter and can
28 make a ruling of it. But I don't quite know, I will speak
29 to - - -

30 HER HONOUR: I think it would be preferable if this matter was
31 taken to the Ethics Committee.

1 MR FARIS: I agree.

2 HER HONOUR: Rather than this court having to rule on it, but if
3 we have to, we have to.

4 MR FARIS: That is what I propose to do at the moment and I will
5 progress that as well as I can.

6 HER HONOUR: The problem is, Mr Faris, I think it is important
7 that the plea be done equally.

8 MR FARIS: Yes, Your Honour, but I think this trial is going to
9 be beset with these sort of problems until it really gets
10 going and I think we just unfortunately will have to live
11 with it.

12 As far as the bias application goes, I don't want to
13 make that at this stage, I am not abandoning it but I would
14 prefer to proceed with the stay application which we think
15 is a pretty significant application and that is on the
16 table, anyway, I have distributed the submissions.

17 HER HONOUR: Yes, I have read that.

18 MR FARIS: Then we have subpoenas. Mr Parsons appears for the
19 police, they have given us some material. They object to
20 other material on the basis of PII, much the same as they
21 did last time, and, as I understand it, I am not putting
22 his case, he has given me a long affidavit, which I haven't
23 read, I have only skim read, they wish to have a closed
24 court hearing to establish their PII case. I don't like
25 closed court hearings, but it is either that or a
26 confidential affidavit and that is the way they want to do
27 it. I have no doubt in reality that their PII claim will
28 be upheld, they are obviously entitled I think to
29 investigate this material and keep it subject to the
30 privilege until the investigation is complete. I would
31 expect that the PII application would be upheld. I am not