

TRANSCRIPT OF PROCEEDINGS

MAGISTRATES COURT
STROFIELD, Magistrate

MAG-00006213/08

GERALDINE FOOI FONG ROBERTSON Appellant

and

DEPARTMENT OF PRIMARY INDUSTRIES AND FISHERIES First Respondent

and

ROYAL SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS Second Respondent

BRISBANE

..DATE 14/08/2008

CONTINUED FROM 12/08/08

..DAY 5

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

THE COURT RESUMED

BENCH: Would you announce your appearances please? Mrs Robertson, you're appearing on your own behalf.

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APPELLANT: Yes, yes, I'm Geraldine Robertson, yes.

BENCH: You're the appellant?

APPELLANT: Yes, the appellant.

BENCH: Thank you.

MS MELLIFONT: Good morning, your Honour, Mellifont, initials KA, counsel instructed by the Department of Primary Industries and Fisheries, the first respondent. I can announce the appearance for Mr Duong who is not here, solicitor, first initial P, surname Duong, D-U-O-N-G, solicitor, Clayton Utz, for the second respondent, the RSPCA.

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BENCH: He just walked in the door. Yes, yes Ms Mellifont, you have-----

MS MELLIFONT: Your Honour, just before we resume, yesterday Ms Jackson, who's the person who's been instructing me from the RSPCA-----

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BENCH: Yes.

MS MELLIFONT: -----endeavoured to prepare, as best as she could, a transcript of that field tape we listened to on Tuesday. Now I myself have not checked it or verified it for it's accuracy. I have only this morning - this morning given a copy to Mrs Robertson. If your Honour would like her it now, I can hand it up now, or alternatively I can have it verified between today and the next time we come back.

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BENCH: I'll - I'll take it now, and if it can be verified between now and when we come back later this month.

MS MELLIFONT: Thank you, your Honour.

BENCH: Are you having difficulties with your voice this morning?

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MS MELLIFONT: I am, your Honour.

BENCH: Right.

MS MELLIFONT: I shall try to keep it up.

BENCH: All right. This is the complete tape, this transcript, is it? 1

MS MELLIFONT: It is.

BENCH: All right.

MS MELLIFONT: Of both days - of both days.

BENCH: Yes, of both occasions, yes, all right. Thank you for the----- 10

MS MELLIFONT: Thank you, your Honour.

BENCH: -----Ms Mellifont. Yes, Mrs Robertson, you are - you just started to cross-examine Mr Towers-Hammond on Tuesday afternoon.

APPELLANT: Yes, your Honour.

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BENCH: Would you like to continue?

APPELLANT: Yes please.

SHAYNE TOWERS-HAMMOND, CONTINUING:

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CROSS-EXAMINATION:

APPELLANT: Excuse me, could - could I have this tape played please?

MS MELLIFONT: I'll take that.

APPELLANT: Thank you.

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BENCH: What is that a tape of?

APPELLANT: That's the exit tape.

BENCH: The exit tape?

APPELLANT: Yes, that was given to us by Ms Mellifont.

BENCH: All right. Mr Towers-Hammond, I - I haven't seen this, I don't think, have I? 50

APPELLANT: I - I think we've been using it for a while.

BENCH: Is this - it's got the-----

APPELLANT: It's the - they - they are both virtually similar.

BENCH: Okay. Has - has the exit tape been played before, the actual exit tape? 1

APPELLANT: Yes, I think so - isn't it, do you know?

MS MELLIFONT: I'm not sure what description this tape's given.

BENCH: All right.

MS MELLIFONT: We might just have to play it for a minute to see if it's the same one. 10

APPELLANT: I think it was taped on the exit of the kennels.

BENCH: All right.

APPELLANT: At the exit. It was given to us by-----

BENCH: On - on the 9th or on the 22nd? 20

APPELLANT: Ninth.

BENCH: On the ninth, and was the inspector present at the exit?

MS MELLIFONT: Yes was.

BENCH: He was, all right, okay, yes?

APPELLANT: It was supplied to us, your Honour, the tape. 30

BENCH: Yes, no, no, I'm just - all I'm trying to do is, in my mind-----

APPELLANT: Yes.

BENCH: -----ascertain what was - what it was about and I - if I - I was thinking if - if this officer wasn't there, I didn't - didn't know what he could or couldn't do, but if he's there he - he can most definitely answer questions, I would've thought. Is that the - title one, is that the----- 40

APPELLANT: Yes, it was given to us by, I think, DPI or RSPCA, I'm not sure. It says "exit tape".

TAPE PLAYED

APPELLANT: Would you please stop the tape. The photo doesn't stop, does it, because the photo went off - the-----

BENCH: Do-----

APPELLANT: -----the film went off, disappeared.

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BENCH: Do you - do you want a - a - yes?

APPELLANT: This tape was given to us by - I'm sure whether it's RSPCA or DPI, only recently. It came with the affidavits and, Mr Towers-Hammond, did you record this tape?-- I do recall that part of the, yes, that I did-----

Yes. I think in fact you did-----?-- -----I did copy - record.

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-----do the whole recording, it had your voice on it. Now I think, what was the purpose of showing my sign on the tape at the start?-- For identification of where I was.

Yes. You also showed the photo on television - released that photo to the television media did you not?-- No I didn't.

Well it was on television in the news on the weekend following the 9th of January, okay. As a result of your release, I was inundated for three months continuous - continuously from morning, 24 hours a day, by telephone calls, abusive telephone calls and assaults.

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MS MELLIFONT: Your Honour, can I please interrupt at this stage. This particular area is one of the matters which was struck out of the notice of appeal as a ground and - and, in any event, this witness has denied releasing this to the media.

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BENCH: I'm struggling to see the relevance of what happened on the 9th as well, Mrs Robertson.

APPELLANT: Well, I think-----

BENCH: Well hang on, hang on, remember the rules, when I'm talking you don't, when you're talking I won't. I'm not going to allow you to ask him questions about things that he has no involvement in. I'm certainly not going to allow you to ask him questions about things which Magistrate Bradford-Morgan has ruled is not part of the proceedings, so on those grounds you can't ask him questions in relation to the disclosure, or otherwise, of what might've been on this tape to - on any media outlets.

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APPELLANT: Your-----

BENCH: You need to focus on - you need to-----

APPELLANT: Yes.

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BENCH: -----focus on why the RSPCA were at your property - was at your property, or were at your property, on the 9th of January.

APPELLANT: Yes, but this has, in my way of thinking, the tape was made by Mr Towers-Hammond, and the main reason why they

were at my property on the 9th of January was the result of a plan to steal my animals, to defame me-----

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BENCH: Mrs Robertson-----

APPELLANT: -----so that I have-----

BENCH: Mrs Robertson-----

APPELLANT: Yes?

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BENCH: -----no-one has - from the evidence that's been provided to me and from what I've read in the material-----

APPELLANT: Yes.

BENCH: -----no-one has stolen evidence. What this is about is about seizure of animals and an order - an order made by the delegate of the Chief Executive to forfeit those animals, which were seized, and forfeiture is to the - to the State. That's what the proceedings are about.

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APPELLANT: All right, your Honour, okay. Could you please play the rest of the video?

TAPE PLAYED

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APPELLANT: Mr Hammond - Towers-Hammond, right, in the four days prior to your raid, were you aware that there were massive floods in Buccan, where half of Buccan - of the - of the Beaudesert Shire was under water? Were you aware of that?-- No.

It was in all the papers and news. Surely your - your other RSPCA inspectors that you had been talking to would have mentioned something about it?-- No.

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So you definitely was not aware of the flooding?-- No I wasn't.

Okay. The - the - although most of south east Queensland was under water, I think up north as well, it was still - you didn't - you didn't think that we could be under water too; did you?-- On the 9th of January I had just arrived from Rockhampton.

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When was Rockhampton flooded?-- Sorry?

When was Rockhampton suffering the same weather that we did with heavy rains and all; can you remember?-- It was - it was the latter of January and February.

How late in January, one week after?-- Can't recall the exact date.