



OFFICE OF PUBLIC PROSECUTIONS

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MEMORANDUM

DATE: 13 March, 2008
TO: Geoff Horgan SC
FROM: Vicky Prapas, Organised Crime Unit
RE: Police v. Faruk ORMAN
Committal 11 March 2008 5 days
CC:

● Counsel is briefed to appear at the Melbourne Magistrates' Court at 10am on 11 March 2008 to prosecute the above committal proceedings.

Enclosures:

1. *Prosecutor's Copy of the Hand-up Brief (4 volumes, including 2 volumes of appendices to HUB)*
2. *Material produced pursuant to Defence summons [REDACTED] pertaining to previous evidence of [REDACTED]*
3. *Copy of photographs.*
4. *Police Form 7A.*
5. *Defence Form 8A.*
- 6. *Prosecution Form 9A*
7. *Evidence of [REDACTED] on [REDACTED] 2004 as provided under Defence summons to [REDACTED]*
8. *Material provided by Victoria Police pursuant to summons to produce dated 1 October 2007*
9. *Copy of s. 42E application dated [REDACTED] 2007 relating to the evidence of [REDACTED] granted by consent [REDACTED] 2007.*
10. *Summary of TIs (not provided to Defence as part of HUB – Strictly Confidential)*

Summary

This brief pertains to the murder of Victor Peirce on 1 May 2002. The Crown case substantially relies on the evidence of [REDACTED]

Issue(s) at committal:

██████████ is currently in custody undergoing a sentence for ██████████ and ██████████. An application pursuant to s. 42E of the Evidence Act was granted without opposition. ██████████ who acts for Orman, has acted for ██████████ in a ██████████ matter. This is a matter of concern for ██████████ as he regards this as a potential conflict of interest.

Of greater significance is the role Nicola Gobbo has played in the lead up proceeding in this matter. She appeared for Orman in two special mentions regarding Defence summonses. You may recall that Gobbo has acted for both ██████████ and ██████████ in recent OPP prosecutions. In particular, she was involved in the negotiations surrounding ██████████ indemnity and ██████████ of ██████████ and ██████████

Wendy Peirce

Peirce will give evidence of the deceased's movements on the days leading up to the murders. One problem with this witness' evidence (other than her prior conviction for perjury) is that she is being less than truthful about where the deceased spent the previous night. Nonetheless, Wendy Peirce states that she saw the deceased between 9.00pm and 9.15 pm in Bay Street in Port Melbourne, which would be mere minutes prior to his murder.

Peirce will be an angry witness at the committal. She is particularly aggrieved by the fact that Orman is represented by Brian Rolfe, who represented her in her perjury matter, and had represented the deceased a number of times. She is concerned that this represents a conflict for Rolfe.

Material provided under Defence summons

Defence issued three summonses to produce in this matter:

1. To the ██████████ for the evidence of ██████████ in ██████████ on ██████████ 2004. This material, in its edited form was provided to Defence.
2. To the OPP (Folder containing this material has already been provided)
3. To the Victoria Police, for material relating to their dealings with ██████████ as well as notes and day book entries. This material was provided to Defence after the PII issue was canvassed with Victoria Police's legal representative on this point.

Additional material served 31 December 2007

Missing statements and additional material which should have otherwise formed part of the HUB was served on the Defence and provided to this Office on 31 December 2007. No further request to cross-examine any of these witnesses has been received at this stage.

I also wish to draw to the learned Crown Prosecutor's attention the material pertaining to Roberta Williams and as well as evidence arising from the trial of Dominic Gatto for the

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murder of Andrew Veniamin. This material can be found in Volume 2 of the Appendices to the Brief of Evidence.

Amendments to charges/new charges to be filed:

N/A

Plea negotiations to date/previous advice sought from a Crown Prosecutor:

N/A

Hearing date chronology:

Matter previously listed on 14 September 2007 for committal mention, but adjourned on 28 August 2007 to 1 October to give Defence more time to consider the brief.

Committal Mention on 1 October 2007 – matter listed for 5 day contested committal commencing on 11 March 2007.

Special Mention on 29 October 2007 for return of Defence summons to Victoria Police. The Crown's 42E application was granted on this date. After some negotiation between Defence and Brian Dennis for Victoria Police, it was agreed that the police would provide some of the material requested, subject to editing.

The ACC also provided material pursuant to a Defence summons.

It was also flagged by Defence that it would seek to summons some material from the DPP.

The matter was further adjourned to 19 November 2007.

Special Mention on 19 November 2007. On this date, there was no appearance by Victoria Police. This somewhat aggravated Defence, as the material sought to be provided to the court pursuant to the VicPol summons was not forthcoming. The matter was further adjourned to 26 November 2007.

The material sought from the DPP was collated. However, we refused to hand it over due to a previous non-publication order by King J.

It transpired that the Victoria Police material had, in fact, been delivered to the Registrar of the Melbourne Magistrates' Court at about 11am on 19 November. The court rang Defence and advised that it could be collected, despite no order for release by a Magistrate. I made them take it back to Court.

Mention on 22 November 2007, in the Melbourne Supreme Court before King J. Her Honour regarded the provision of the transcript of plea and sentence of [REDACTED] as being "publication". She ordered that *the suppression orders made on [REDACTED] 2006 and [REDACTED] 2007 in relation to [REDACTED] be varied to allow the Crown to release the edited version of his plea and sentence to Counsel and Solicitors appearing for Faruk Orman. She further directed that Mr Orman not be given a copy of the documents released, but be allowed to read a copy only in the presence of his representatives.*

Special Mention 26 November 2007, Melbourne Magistrates' Court.

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Material provided by OPP and Victoria Polcie released pursuant to Defence summonses.

Witnesses:

1. availability: Not advised of any difficulty by police.
2. remote witness facility/video link:] Police will
3. interpreters: N/A
4. other witness requirements: N/A

Representation:

The defendant is represented by Brian Rolfe of Galbally Rolfe.

Informant:

The Informant is D/Sgt Boris Buick of Purana. His numbers are [REDACTED] and [REDACTED]