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NORTHERN TERRITORY OF AUSTRALIA

LOCAL COURT

No: 22336063

WORK HEALTH AUTHORITY

and

CHRISTOPHER WALLACE

JUDGE WOODROFFE

TRANSCRIPT OF PROCEEDINGS

AT ALICE SPRINGS ON 8 JULY 2025

Transcribed by:
EPIQ

MR STERN: Your Honour, I could perhaps indicate - - -

HIS HONOUR: Yes.

MR STERN: Mr Crean and I have reached agreement. He's just getting some stuff copied via the court and we are ready to then deal with this matter as a plea. But I suspect in the next five minutes or so, your Honour.

HIS HONOUR: Well, that's fine.

MR STERN: If that's convenient to the court.

HIS HONOUR: Yes, it is. Thank you.

MR STERN: Subject to my friend, who might have say - - -

AN UNKNOWN PERSON: No.

MR STERN: Nothing. He's just keeping the Bench warm. On that basis I'll just go and see where Mr Crean is. And, obviously, my client is - will be sitting in the front here, your Honour.

HIS HONOUR: Yes. Thank you.

Yes. Mr Crean.

MR CREAN: Thank you, your Honour, and thank you for the time. Your Honour, the matter has resolved.

HIS HONOUR: Yes.

MR CREAN: Just - your Honour should have a complainant, I believe - - -

HIS HONOUR: Yes, I do.

MR CREAN: - - - which was filed by Ms Katie Cheong back in, I think it was 2024.

HIS HONOUR: Yes.

MR CREAN: Your Honour, first of all, charge 3.

HIS HONOUR: Yes.

MR CREAN: That is to be withdrawn, first of all, or we'd seek leave to withdraw that.

HIS HONOUR: Yes.

MR CREAN: And the - essentially then, the resolution, your Honour, is that upon entering a plea to charge 1, which is to be amended slightly, charge 2 will be withdrawn.

HIS HONOUR: Okay.

MR CREAN: What I have to hopefully try and assist your Honour is an amended Word version of the complaint as to how it would read.

HIS HONOUR: Thank you.

MR CREAN: And also, an agreed set of facts, which is, thankfully, now one page and not seven. So hopefully that should simplify things, your Honour. If I could provide those.

HIS HONOUR: Thank you. Yes. Thank you. When you're ready.

MR CREAN: Your Honour, would you like me to read the charges?

HIS HONOUR: Yes. Thank you.

CHARGES READ BY MR CREAN

MR CREAN: How do you plead: guilty or not guilty?

THE DEFENDANT: Guilty.

HIS HONOUR: Thank you. Yes. Thank you. You can have a seat.

And so charges 2 and 3 are now withdrawn.

MR CREAN: That's correct, your Honour.

HIS HONOUR: Withdrawn and dismissed.

MR CREAN: That's correct.

HIS HONOUR: All right.

MR CREAN: Thank you, your Honour. And in terms of any additional material for sentence, I understand my learned friend's ready to proceed with submissions. There's no relevant priors for the purposes of sentencing. Your Honour, I've spoken to my learned friend, and if it assists, I can make some brief submissions in advance, which may try and expedite things.

HIS HONOUR: Well, firstly, the agreed facts, they're admitted?

MR STERN: They are admitted, your Honour.

HIS HONOUR: Thank you. I find the charge proven. The admitted facts will be exhibit P1.

EXHIBIT P1 Agreed facts.

HIS HONOUR: Yes.

MR CREAN: Thank you, your Honour. Your Honour, I understand my learned friend seeks a non-record a conviction as per s 8 of the *Sentencing Act*.

HIS HONOUR: Yes.

MR CREAN: Your Honour's obviously fully aware of the provisions A, B and C.

HIS HONOUR: Yes.

MR CREAN: In terms of his character, antecedents, age and health, it's accepted by the prosecution that he presents as someone otherwise of good character. He's now 67 years of age. I understand - and my learned friend may elaborate on this - he's had - I understand he's had some difficult health conditions. That's in regards to subs 8A, subs 8B, "The extent to which the offence is trivial."

Whilst the prosecution submit it's not the most serious form of intimidation, noting the maximum of 2 years, do not submit it's of a trivial nature. It's not a trivial offence. Subsection 8C, your Honour, as to whether or not the offence was committed under extenuating circumstances. Respectfully, these do not appear to be relevant in these circumstances. But is accepted that subs 8A is a live consideration for your Honour and/or if your Honour feels that way.

Your Honour, in terms of the timing of the plea, the matter was listed down for a two-day hearing. Witnesses have been called. I think there's seven in total. However, notwithstanding that, the prosecution do accept that there's still significant utilitarian value in the plea being entered. Whilst it's now 12 noon, it's still hopefully a day and a half of court time hopefully can be used to do other things.

Your Honour, just the final note in terms of costs. The - of course, a matter for the court, but the prosecution would seek the standard costs under, I believe it's s 77A of the *Local Court (Criminal Procedure) Act*.

MR STERN: It's a regulation, isn't it?

MR CREAN: It is, but it refers to then the regulations, which I think are the standard sort of counsel fees. I think it's listed around \$1500 for - under the regulations. So. Your Honour, those are the brief submissions the Crown - the prosecution wish to make. Unless I can assist your Honour further. If it also assists, we did have a look as to whether there's any comparative cases.

HIS HONOUR: Yes.

MR CREAN: The comparatives that we could find, admittedly, were reports in media outlets and they appear to relate to the assault, where physical assaults on workers had taken place, which is obviously - so don't assist. I don't propose to take your Honour to any of those. So that's what we're left with, your Honour.

HIS HONOUR: Yes. Just in respect to the maximum penalties.

MR CREAN: Yes, your Honour.

HIS HONOUR: I just had a quick look at the Act - - -

MR CREAN: Yes.

HIS HONOUR: - - - and whether that's changed, the maximum penalty of a fine of \$50,000 and/or 2 years' imprisonment.

MR CREAN: 2 years. Yes. That's correct, your Honour. Yes.

HIS HONOUR: All right.

MR CREAN: Unless I can assist any further, your Honour, those were the submissions.

HIS HONOUR: Thank you.

MR STERN: Your Honour, as my learned friend has indicated, obviously, this is a matter where I foreshadowed to my learned friends across a s 10 discharge and a s 8 no recording of a conviction.

HIS HONOUR: Yes.

MR STERN: In terms of the client's antecedents - and, obviously, s 8 is disjunctive in nature, as my learned friend and I accept, and your Honour is undoubtedly aware from many years past. My client is now 67 years of age. As was indicated in the facts, he had a significant motor vehicle - or sorry, he was on a motorcycle at the time - accident in 2011. And as a result of that has been entitled to benefits under the *Motor Accident (Compensation) Act* since that period.

He perhaps falls into that character of - in that Looney cartoon of "Why me", where there's a person - and it's a glimmer of moonlight peering down on them. But in the circumstances of this case, he, on his instructions, was effectively the good Samaritan, as he saw it, calling out the fact that in his view as a major supplier to the Alice Springs Solar City program for 2008 and 2010, was contacted by a woman who had a major visual impairment, whose husband was disabled, to investigate the

property at 33 Mulara Street, because she had some concerns at the time about the installation, which in that case was some 13 years earlier in time.

He, as your Honour will see from fact 3, advised Power and Water of that fact, that he believed there was a noncompliant system there - - -

HIS HONOUR: Yes.

MR STERN: - - - and that led, in turn, to a Power and Water employee, Mr Connor and Mr Boyd attending those premises. In terms of the client's background, your Honour, SunTek was the major propriety limited - was a company of which he was the director, and it undertook work on behalf of that Solar City program in that two-year period.

His training was such that he joined the RAAF in 1976. He worked for 12 years for the Royal Australian Air Force. He did his electrical trade there. He worked at the air force bases of Wagga Wagga, Richmond, Amberly and finally at the Lee Point Radar Station in Darwin. Throughout that time he held both a contractor's licence and an electrical licence in the Northern Territory, whilst employed by the RAAF.

When he was discharged, he travelled back from Darwin where he'd last - or where he effectively ceased his RAAF career. Came to Alice Springs and decided there was a prospect for him to carry out contracting electrical work. And the particular focus he had was on the solar power system, which at that stage was very much developing.

He in 2011 had the motorbike accident that's referred to in par 1. He's been on benefits under that scheme until he reached what's called preservation age, which is 66 years of age, which is when you're entitled to go on the pension. And at that stage ceased being in receipt of benefits. At the time of the - of circumstances, he'd recently been in hospital. And I probably should premise that the - in terms of his medical history.

The 2011 motorcycle accident left him being medivacced out to Adelaide. He was potentially in a life and death situation. He recovered but he had four fractures of his pelvis, seven of his femur, lost a couple of his teeth and had his left knee eventually replaced in 2022. By 2023 in September, he had spent a week in hospital with breathing issues and some ongoing issues in respect of the knee replacement that had occurred 12 months before.

He'd fallen while at home with that knee replacement. There was some investigative work being undertaken. He was in pain from those reasons, but he also had on his right wrist what's called a ganglion cyst, which is basically a swelling that was impeding the nerve work there such that, effectively, he had no strength in his right dominant hand.

Having reported these matters as he had indicated to amongst other people, but Minister Burgoyne, who's also an electrician. His view was that Power and Water,

as the part owner of this original system from 2010, should do the right thing and replace the system, rather than shutting down - which technically they could do the system.

Words, as your Honour will see in pars 5 and 6, became somewhat heated. But potentially, on my inductions, in response to a suggestion from Mr Boyd that he was doing paid work, which could be (inaudible) in the compensation system.

So the coupling of the pain, the issues, the fact that he thought the house owner was not being well treated, led to events escalating. And Mr Boyd and Mr Connor and Mr Wallace, all of whom were in close proximity to each other, had the exchange of words that led to Mr Boyd falling, or falling from his lips the word which he's indicated were intimidatory as far as he was concerned.

Your Honour, but for these events, we've got a person who has served the Alice Springs community in a working capacity for 23 years up to the time of his accident. He's done 12 years of service in the military. He's got no relevant offences. Your Honour, I will be asking you to consider in the odd and peculiar circumstances of this case, where he felt there was a - an owner of a house at 33 Mulara who wasn't being well treated, and despite his best efforts to bring these matters to the attention of those who he thought could assist, he in turn found himself in circumstances where he reacted.

Your Honour, after 67 years on the planet, that's perhaps not an unusual thing to do. And for those reasons, your Honour, under s 8A, I'd be asking your Honour to not record a conviction. I'd be asking your Honour not to - well, to grant a s 10 discharge. And it's a case where in as far as it's within your Honour's discretion, the facts of this case are such that I'll be asking your Honour to make an order that there be no order as to costs.

HIS HONOUR: All right. Mr Crean, there was nothing further?

MR CREAN: No, your Honour.

HIS HONOUR: All right.

MR CREAN: Thank you.

HIS HONOUR: Thank you, Mr Wallace. You can remain seated. So I'm now going to proceed to deal with the matter, today. The matter has resolved on the day of the hearing, but I can accept that there's been a significant utilitarian benefit in the sense that this was listed for over the course of two days, and the matter has resolved.

I can perhaps not fully understand the nature of the issues around the solar lighting, but I conceive that you yourself had had a long involvement with the premises and the occupants of that, and particularly what seems to be a situation that you seem to be on this day in question, vigilant in their interests given their vulnerabilities of persons with disabilities. And it seems that also you've advocated

in their interest over a period of time. There also seems to be a question of some - of your professional understanding and perhaps this has also led to some of the disagreement between the various persons who have attended.

I can take into account the facts that - your personal circumstances have been raised by your counsel, the fact that you have made a significant contribution, not only to the nation, but also to the Northern Territory, having been in the defence forces down south and, importantly, also up in Darwin at Lee Point, and then deciding to settle down here in Alice Springs and build a career and be involved in - a director of a local company - perhaps not a local company or an NT company, but for a significant period here in Alice Springs.

You have professional skills. I haven't heard much about your personal circumstances, but you've settled down in Alice Springs and made a valuable contribution to the community. I've also heard from your counsel about your significant issues that have affected you, but your resilience in building a successful career upon what seems to have been a significant and life-threatening motor vehicle accident, and also the complications that have continued throughout your life.

And also, as I say, on this particular day, where it seems to be a mixture of - not an antagonistic conflict, but as they say, vigilant in the interests of persons, and perhaps some professional disagreement. But I can take it into account, and I can take into account the objective seriousness, which is perhaps towards the lower end of such offences. But it is a situation, equally, I think, that despite your - any prior history, that general deterrence is also of relevance in the sense that inspectors under the various government authorities in the NT should also be ensured of their safety.

I'm sure with your plea there's also a measure of remorse. So when I do consider, firstly, the factors about whether to grant a non-conviction under s 8, I can have regard to your prior good character. And as I've already stated, your - that seems to be well established, not only through your careers, your defence career, your professional career and also your service in the community.

And also coupled with that is the absence of any prior history. And, obviously, I'm sure there would have been a degree of some stress, having been on summons for a very long period of time with these matters before the court (inaudible) resolved. So given the unique circumstances as well, I also consider - so firstly, I am satisfied under s 8 that - under s 8A, that a person of prior good character is such, given not only your years' service to the community, etcetera, not in recording a conviction, and also given the circumstances of the agreed facts and it's to the lower end.

I do also agree that the matter can proceed today by - without conviction and a s 10 dismissal of the charge. Does that necessarily follow a victim's levy with a dismissal or no?

AN UNKNOWN PERSON: I think a victim's levy applies in relation to all matters save for terms of imprisonment.

MR CREAM: Yes. My understanding is that it still follows, your Honour, and your Honour still have the ability to order costs if appropriate, your Honour.

HIS HONOUR: All right. Yes. And you wish to raise submissions?

MR STERN: No, no. I don't take issue with what my learned friend says. I think he's correct. But - on the levy I think he's correct.

MR CREAM: Yes.

HIS HONOUR: All right.

MR STERN: Which I think, despite there being some suggestion it was \$300, a little earlier, I think it's somewhat less.

HIS HONOUR: It's \$150. Yes. So I do impose a victim's levy of \$150. And on the question of costs, you've - - -

MR STERN: I've submitted that each party should bear - well, effectively, there should be no order as to costs based on the peculiar circumstances of the case, your Honour.

HIS HONOUR: Yes.

MR STERN: It's not automatic. It's just discretionary, your Honour.

HIS HONOUR: Yes. Has there been much preparation in respect of - or summonses of witnesses and attendance?

MR CREAM: Your Honour, there was seven witnesses that were set down to - all required to be cross-examined by the defence.

HIS HONOUR: Yes.

MR CREAM: Three - effectively, three WorkSafe officers and three police officers - and who was the seventh person.

HIS HONOUR: Yes.

MR CREAM: There was, obviously, the two-day hearing. There's been fairly extensive summonses and notices that have been issued by WorkSafe. There is two WorkSafe officers at the rear of the court.

HIS HONOUR: So people have travelled and - - -

MR CREAN: Travelled from Darwin to the Northern Territory, et cetera. But WorkSafe would be seeking the - essentially, the standard indicated costs under the regulations.

HIS HONOUR: All right.

MR CREAN: There are particularly within regulatory matters, where they'd be seeking the complex more - - -

HIS HONOUR: Yes.

MR CREAN: - - - whilst extensive resources have been expended, they would be seeking only the standard under the scale costs in the circumstances, your Honour.

HIS HONOUR: Right.

MR STERN: Perhaps the only submission I could - I should properly make is in respect of the discretion, your Honour, is, Work Health matters aren't really treated any differently under the provisions of the *Criminal Law Procedure Act*, which pick up the old *Justices Act*.

HIS HONOUR: Yes.

MR STERN: But any other offences - offences or offences. So - - -

HIS HONOUR: All right.

MR STERN: - - - I guess all I'm - while these matters are unusual, I'm saying that they shouldn't be put in a special category all of their own.

HIS HONOUR: All right. Thank you for that, Mr Stern. Thank you as well, Mr Wallace. Notwithstanding submissions of your counsel, I will make that order, given the fact that there has been expense to the Work Health Commission and particularly with travel and witnesses. So I will make that order for costs, only in respect of the single day for \$1500.

MR CREAN: That's, I believe, under the regulations, it's 1500.

HIS HONOUR: Yes. And it's payable to the - - -

MR CREAN: I believe it's to the - - -

HIS HONOUR: Clerk of the courts?

MR STERN: Technically, it's to the Northern Territory - yes, the clerk of courts, your Honour.

MR CREAN: Yes. That's right. Yes.

HIS HONOUR: All right. Well, I make that order payable to the clerk of courts. And I also vacate today and tomorrow's hearing dates.

MR CREAN: May it please the court.

HIS HONOUR: All right. Thank you.

MR STERN: May it please the court.

ADJOURNED