

Indictment 2 (C11434997.4) **Charge 1.**

DURESS DEFENCE ABANDONED!

I was being held in the Acacia Unit Barwon Prison

I was previously advised by **another legal adviser as, "far back as October 2012".**

"Duress defence" had no chance at success & zilch chance in law. I had sent him

A 40 odd page draft document with various aspects of robbery in it blended with the.

"Bullsh*t claim of receiving a pistol from Ursula Prendergast".

A copy was also sent to Steve Miller, which was later recovered by Police.

Its contents suggesting Ursula Prendergast. **Causing me to "commit the robbery".**

To **"Compensate her for its loss of weapon".**

Which I had abandoned pre- committal proceedings period! Abandoned in 2012.

This idea considered exploring **"prior to Committal proceedings in March 2013".**

I had also indicated it was "full of sh*t and littered with holes" "at committal!"

Gavin Green of legal aid had suggested **"I should re-examine this defence position"**

In **May**, I was provided an outline to **"form my defence of duress by Gavin Green."**

To try and re-float and re- construct it and **"make it happen within its boundaries."**

Letter of 17th May 2013. Provides **"guide in points to establish in duress defence".**

Your reference:

Our reference: 12X003400 GG:ss

☎ telephone: (03) 9269 0325 fax: (03) 9269 0498

17 May 2013

Legal in Confidence

Mr Christopher Binse

C/- Port Phillip Prison

DX 39334

LAVERTON VIC



Victoria
Legal Aid
Lawyers And
Legal Services

Melbourne Office
350 Queen Street
Melbourne VIC 3000
GPO Box 4380
Melbourne VIC 3001
DX 210646 Melbourne VIC
t: 03 9269 0234 / 1800 677 402
www.legalaid.vic.gov.au
ABN 42 335 622 126

Dear Mr Binse

Supreme Court - Melbourne – 5 June 2013

As discussed when we met on 15 May 2013, please find enclosed CDs containing the Depositions and the Hand Up Brief of evidence.

You also asked me to send you some information about the defence of duress. The below passage is a very basic summary:

*There are **seven ways** in which the prosecution can negate the defence of duress.*

First, the prosecution can prove that no-one was threatened with death or serious injury if the accused failed to [describe relevant offence].

Second, the prosecution can prove that any threat that had been made was not present and continuing, imminent and impending when the offence was committed.

Third, the prosecution can prove that the accused did not reasonably apprehend that the threat would be carried out.

Fourth, the prosecution can prove that it was not the threat that induced the accused to commit the offence charged.

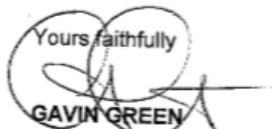
Fifth, the prosecution can prove that, when free from the duress, the accused voluntarily exposed himself/herself to its application.

Sixth, the prosecution can prove that the accused could safely have prevented the execution of the threat.

Seventh, the prosecution can prove that the circumstances were such that a person of ordinary firmness of character would not have been likely to yield to the threat in the way the accused did.

*If the prosecution can prove **any** of these matters beyond reasonable doubt, then they will have negated the defence of duress.*

If the prosecution cannot prove at least one of these above matters beyond reasonable doubt, then an accused person must be found not guilty. The law of duress is more complicated than the summary above and we will discuss this further in due course.

Yours faithfully

GAVIN GREEN
Program Manager, Indictable Crime
Accredited Specialist in Criminal Law

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This **“improbable duress defence”** was later discussed on a legal visit in the company of **“Saul Holt on the 20th November 2013”**.
Who had also now **“encouraged me to pursue exploring this pack of lies defence”**

Nearly (9) months after. **“Abandoning it even before Committal in March 2013”**.
I had “grave reservations at this point in time”.

It was NOT SOUND AT ALL. **My P.T.S.D. condition was.**

⁸⁵ Letter dated 17th May 2013 from Gavin Green, re- Duress defence (7) ways to establish duress Defence.

The additional fact.

I “had already stated this was a. “False fabricated corrupt version of events.”
During committal proceedings.

<SARAH LOUISE CRACKNELL, recalled:

Page 750 Line 30- Page 752 Line 7.

OK, all right. What about - what about the letter to - that was actually a big document, 44 pages I think, Steve Miller, did you investigate that?---Yes, Your Honour. A search warrant was conducted at Steve Miller's premises. Steve Miller is The - - -

HER HONOUR: Father of Kylie? ---That's correct, yes, Your Honour, at Which a document from Mr Binse was seized during that search warrant and it goes Into essentially a background of Mr Binse and what led up to these proceedings.

ACCUSED: And half of it is hit, isn't it? Sorry. Is it a factual letter? ---As I said - - - You investigated it, where did it lead you? Did it lead you anywhere? ---Some of it Has been corroborated, others have not. So about 50/50 or something about truth so You investigate the things, so you start looking at certain things, you know, certain Areas and also try to get your attention to look at, would that be correct?-- The letter Has been - the contents of the letter has been investigated, Your Honour. OK. And it's Found out half of it's shit and half of it is factual, you know. Did you manage to get DNA from Ursula Prendergast in relation to claims I said that I got weapons off her And this is the first time you've got DNA in a cold case murder that she's been Refusing to cooperate, to assist and provide, her husband's been missing since 1985, Or thereabouts, is that the first time you were able to get DNA in relation to that?--- Your Honour, Ms Prendergast was formally interviewed in relation to this offence. She was released without charge. OK. Released because it turned out to be (accused Demonstrates), didn't it, and had to be - - -

HER HONOUR: It has nothing to do with this case, has it?

ACCUSED: OK. Well, it's weapons I suggested, you know, suggest This, suggest that, I've got weapons from her which just turned out to be what, factual? Were you able to prove it, able to establish that at all? ---That hasn't been established, Your

And was documented in Police notes of interview with Ursula Prendergast!

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		Monthly Overtime _____	Monthly Court Hours _____	Rest Days Owed _____
Date / Time	Particulars of Duties			Claims
	Phone handed to PRENDERGAST for advice			
1037	w/f check D&S BINLITXAM			
1057	i/v commenced			
	ID provided ✓			
	partial No comment.			
1110	i/v suspended.			
1125	p/c to Alex again at request of PRENDERGAST provided solic (Jacqui) CBST as shortly unavailable.			
1135	PRENDERGAST produced photo copies of 5 x letters from BINSE → 3/6/12 - No Reconciliation here 6/6/12 - Charlize's Dad. 6/6/12 - she can carry PRENDERGAST... 6/6/12 - offspring of a savage Rapist. 29/7/12 - Ursula & Underwood family			
1154	i/v recommenced. DNA - consent ✓ Conducted by DS - BREKTON. Bag no. 70002-7010. Consent to search ✓			
1207	i/v suspended. Disc 11 finalised. p/c to Lauren a woman's phone [redacted] Domestic e Refuge Hotel! BREKTON to collect keys for apt. [redacted]			
1235	p/c to Jacqui e Lenderbaig & Lenderbaig [redacted] Advised PRENDERGAST still in custody. No indication given of bail when asked.			
1250	C1 v BREKTON & PRENDERGAST.			
1310	US in CP A/A → - NO ID - ISSUES - 211NEM			

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¹¹ Melbourne Magistrates Court Evidence March 2013.

⁶⁴ Ursula Prendergast Police interview notes, 5 letters provided to Police.

Police officer “Sarah Cracknel = 33913” Police notes for the 9th November 2012.
11.35. Prendergast produced photocopies of 5 x letters from Binse.
Police interview 2nd part “footnote 71”. “Concluded once letters were produced”.

Clearly demonstrating there was no link at all period to her in relation to “guns”.

Page 89 L7-11 Mr Holt: his Land Rover was searched and the gun was found was another important mark in this period because it was made absolutely clear to him that that firearm needed to be, compensation needed to be provided for the loss of that weapon.

Page 90 L18 -20 His Honour: And as a consequence of having to make good for the seized firearm at Seaford was a factor that led to him committing the armed robbery,

Page 90 L21 - 24 Mr Holt: **It was a factor that led him to committing the armed robbery, a factor, together with what we submit was substantial pressure that was being placed on him by the grandmother of the child.**

Page 90 L25 -28 His Honour: It's not exactly a mitigating factor, is it, wanting to make good for the loss of a firearm to the police that he's carrying around with him As a prohibited person.

Page 90 L29 – 91 L1 Mr Holt: **Quite. And it was precisely advice to that effect which caused the plea to the charge of armed robbery and recognition after a period of trust building with his legal advisers that a defence of - - -**

Page 91 L2 His Honour: Duress.

Page 91 L3 - 6 Mr Holt: **Thank you that the defence of duress was unsustainable for a number of reasons, but in particular because he had himself chosen to engage in a criminal conspiracy with another person.**

Page 91 L7 His Honour: Which negates the defence.

Page 91 L8 Mr Holt: Precisely so.

Page 91 L9 His Honour: **He got good advice.**²¹

YES I GOT GOOD ADVICE TO PURSUE A DEFENCE THAT “WAS DOOMED TO FAIL”,

AND MY DEFENCE TEAM WOULD THAN GO TO “NEGATE A REAL LEGITIMATE P.T.S.D CONDITION!” AND IS GRANTED “MITIGATION IN LAW!” AND AVOIDS “SPECIAL DETERRENCE TERMS!”

“DELIBERATELY DEPRIVE ME OF MITIGATION AND PUT ME IN SPECIAL DETERRENCE!” THIS OCCURRED NOT JUST IN ARMED ROBBERY MATTER BUT SIEGE CHARGE TOO!

Page 91 L19 -22 Mr Holt: and the part of that was about being able to deal effectively with the Gavin Preston problem and **also make good the loss of the firearm.**

Page 94 L6 - 15 Mr Holt: So dealing – just to finish with the lead up to the armed robbery and then the armed robbery itself, the person who I've already named, Ursula Prendergast, who on our instructions was putting substantial pressure on Mr Binse to **commit an armed robbery, and to commit this offence, there is material – and if I can direct Your Honour's attention to tab 11 of the material and in particular there is an interview between Detective Cracknell and Ursula Prendergast.**²¹

²¹ Supreme Court of Victoria from dates of 28th -30th May 2014. Plea submissions

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THE FIRST PART OF POLICE INTERVIEW JUST **ASK'S HER IF SHE HAD A ROLE IN IT.**
THE INTERVIEW IS THEN SUSPENDED **"FOR HER TO PRODUCE THE (5X) LETTERS".**
THIS 2ND PART OF INTERVIEW NOT PLAYED TO THE COURTS OR INTRODUCED AS
AN EXHIBIT EITHER FOR THAT MATTER. AS **"WOULD HAVE ILLUSTRATED CASE".**

Page 94 L16 His Honour: Just excuse me. Which folder is this in?

Page 94 L17 Mr Holt: Folder 1, Your Honour, of the defence materials.

Page 98 L8 - 11 Mr Holt: Yes, and Laurie Prendergast's widow. Ursula and Kylie prevented Mr Binse from seeing his daughter. He describes that graphically and I invite Your Honour to consider it at page 308 of his statement and 310.

Page 98 L20 -21 Mr Holt: again I won't take Your Honour to it, but just for **reference if it's required page 2098 of the depositions –**

Page 98 L24 - 26 Mr Holt: describes how much he was missing his daughter over that period of time and we submit the pressure upon him over that period was pretty substantial.

Page 98 L26 - 27 Mr Holt: **again it cannot be relied on as a mitigating factor,**

Page 98 L27 - 28 Mr Holt, but is nonetheless the reality, ²¹.

Saul Holt takes His Honour to. – Page 94 L11 – 15.

BUT "NOT OF THE FOLLOWING". CRUCIAL DEFINING CONTENTS OF.

Ursula Prendergast Police interview 9 November 2012 at 2.10.pm. footnote (71).
Where Ursula. "Provides police with (5x) letters footnote (64). I had wrote her".

Police Interview ends minutes later! Neither Police /Crown would pursue any further!
Saul Holt continued to lead foolhardy defence up that track, knowing in law, full well.
That defence was. **"DEAD!!!" "Not viable to me at all".**

Yet. My medical P.T.S.D "WAS VALID!" And A "LEGIT MITIGATING FACTOR!!!"
Later proven and accepted in **"D.P.P. v Christopher Pecotic (S CR 2016 0021).**
Saul actually went to **"extreme measure to hide, lie and conceal any traces of it!"**

Knowing it to be the case. Yet presents a false misleading corrupt position negating it!

Page 72 L25 – 29 Mr Holt: The point is, and Mr Binse would want me to stress this from the outset, and I will return to that theme, as we go through the materials, **the point isn't to say that Mr Binse ought to be excused for the behaviours he has had when he has been out,**

Page 72 L6- 13 Mr Holt: and that's why I commenced this aspect of my submissions **by saying Mr Binse would not want me to be suggesting that that background was any sort of complete excuse or even or even a significant excuse for what he did.** The materials that he has prepared himself have made it overwhelmingly clear his expectation that he will be substantially punished for what had occurred **and that that is the right and proper thing to happen.** ²¹.

²¹ Supreme Court of Victoria from dates of 28th -30th May 2014. Before His Honour Justice T. Forrest

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And that that is the right and proper thing to happen. Sic. In Fact was malicious and far from the real facts, preponderance of evidence which was later accepted.

MY PAST PREVIOUS VIOLENT EXPOSURE & P.T.S.D. CONDITION DID PLAY A ROLE!

<SARAH LOUISE CRACKNELL, recalled:

Page 789 Line 3- 31.

And anyway, were you aware that maybe there was alerts out for me already in Relation to, I don't know, pistol matters, outstanding car issues or anything like that At the time?---I was aware of an outstanding matter, yes, Your Honour. OK. And the Police wanted to speak to me about a silence pistol that was found in my Land Rover In Seaford Road, is that correct? ---That's correct, Your Honour. OK. And also was it Brought to your attention that there was another issue brought to - Emmanuel Alexandrides suggested I was stalking him or something, made reports to police on four occasions that he's seen me in the vicinity of his residence, is that correct? ---I was aware of that outstanding matter, Your Honour. OK. And do you know that there's two people associated and Prison Intel will show you that Alexandrides and Gavin Preston are (Accused demonstrates) linked, do you know that? ---I was aware that they had both served time, yes, Your Honour. OK. Were you aware they were both in Banksia Unit, you know, Alexandridis was in the yard with me, Gavin Preston was in the yard across the road when an incident happened, you know, the (Accused demonstrates) this one, the photos, have you seen those photos?---I haven't seen photos, Your Honour, but I did read about that incident. And they believed that it was Gavin Preston had actually sponsored or organised, arranged or something like this, is that what your information says?---I'm not aware of the intricate details of that, Your Honour.¹¹

<SCOTT JAMES POYDNER, sworn and examined:

Page. - 532 L1- 534 L1.

Emmanuel Alexandrides. Are you familiar with this? ---Yes - brief details of that. OK and they - the police wished to interview me and they had to clear it through you First before they're able to proceed?---No, that's not correct. That's what you mentioned in the last proceedings, that they had to contact Piranha Or something and clear it with. Do you recollect coming out to see me? --The actual Fact of it is that the senior constable from a traffic management unit who's the lead Investigation in those matters, he's never done a 464B Application. He does very Little in the criminal field and he's contacted me for advice because he knows that I've Got a relationship with you and I've offered to help him and do an interview with him.

¹¹ Melbourne Magistrates Court Evidence March 2013.

Did you know where this - today the Emanuel Alexandrides - do you know anything about this person? ---No. Do you know if he's been in - to custody before? ---Yes, he Has. OK. Do you know if he was involved in an incident with me - - -

MS WILLIAMS: Has this got any relevance, Your Honour, to these matters.

ACCUSED: *Yeah, it is because they're connected. These two men, Your Honour.*

HER HONOUR: Which two?

ACCUSED: *Preston and Alexandrides.*

HER HONOUR: But they're not connected with this case.

ACCUSED: *Yes but my concerns were that Alexandrides is living right behind where I am at Kylie's place in Ormond Street. He sees me four occasions, reports me to the police four occasions, OK, to institute an Apprehended Violence Order, OK. Now I don't whether he's still in contact with Preston or no.*

HER HONOUR: I'll tell you what. Because this committal is about these offences, Let's stick to the facts in relation to this committal and you can speak to the witness Separately about those issues.

ACCUSED: *OK.*

HER HONOUR: Because certainly if you're tired as well, we need to get through - - -

ACCUSED: *Yes. I understand. I understand. I'm just trying to see - I had a lot of concerns - grave reservations for my safety,*

HER HONOUR: Yes.

ACCUSED: *As come out through this officer, and Dick - Mr Kennedy and I did convey to him my concerns and that I actually departed - I transferred my - my daughter to a different location to - - -*

HER HONOUR: Well certainly you discuss that with this witness, or anybody else.

ACCUSED: *OK, all right.*

HER HONOUR: But, should I say - because we're dealing with this committal let's try and stick to the issues here and it may be that you don't - - -

ACCUSED: *Yeah, it's complicated - seriously it's a little bit complex - it's not as quite as cut and dried as it is, there's a lot of underlying factors for my concerns.*

HER HONOUR: Yes, yes.

ACCUSED: And you know, and being armed and stuff like that and maybe engaging in certain activities to make sure that people are safe, you know? And to move them from different locations, because they may have been compromised.¹¹.

Little did I know at the time, I. **“Did not have to create ANY lies (or) deceit at all”.**

I had a “strong compelling case”. Supported by a wealth of independent evidence

All documented medical reports and my history was already established in cement!

Ursula’s “link to a gun”. “Does not tally up” with ANY of the evidence at all. PERIOD!

The Police/Crown and even “my defence team knew it was absolute crap!” “ALL the evidence suggested otherwise”. Yet suited them.

As it **would go on to. Negate an otherwise legitimate defence!**

The silenced pistol **“was mine”**. Not hers. All other aspect of duress in story. **“Was the truth”**.

My Judas defence knew it. **He had consistently on a wholesale scale corrupted facts! Yet suggested otherwise, with no facts, to sink me!**

Sabotaging an honest true account of events. **Armed robbery was not isolated incident** Was I under. **“Extreme pressure and Duress”** from Ursula. **Absolutely!!!!!!!!!!!!!!!**

“Minus the pistol!”

SIGNIFICANT & CRUCIAL POINT “I HAD PROVEN AND DEMONSTRATED ALREADY”.

“MY CONCERNS TOWARDS SAFETY OF MY DAUGHTER” & “THOSE AROUND ME”.

“WAS REVEALED DURING THE POLICE INTERVIEW ON THE “24TH MAY 2012”.

My argument is based on. “All the preponderance of facts and evidence proven”. Supported in case law by. **R vs Olbrich 199 CLR 270. [1999] HCA 54.**^{158.}

BIBLIOGRAPHY:

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^{64.} Ursula Prendergast Police interview notes, 5 letters provided to Police.

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¹¹ Melbourne Magistrates Court Evidence March 2013.

^{158.} R vs Olbrich 199 CLR 270. [1999] HCA 54.

¹⁵⁸ R vs Olbrich 199 CLR 270. [1999] HCA 54.