

“ISOLATION PLACEMENT”.

HIS HONOUR JUSTICE TERRY FORREST WOULD ARRIVE AT FOLLOWING 2014 DECISIONS,
DUE TO **SAUL HOLT’S SUBMISSIONS.**

40 I am satisfied that your current prison accommodation is largely the product of your
conduct over your time in the prison system. For reasons that I shall refer to shortly,

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Page 4 Line 12- 21.

*Saul Holt suggested that I spent all my name in super max, that was from after 13 years in super maximum, I have never spent one day, one minute, one moment in super max in New South Wales, okay, and far from the, I spent three and a half, just over, a tad over three and a half in the management units in New South Wales, so that had a huge impact like on my sentencing, that I'm intractable, I'm unamenable to discipline, that I'm crazy, that isolation is basically made for me, I have got all the transcripts here, Your Honour,*²⁹.

THE FOLLOWING EVIDENCE WAS PRESENTED DURING MY PLEA HEARING.
R v Binse [2014] V S C 253 (T Forrest J).

Page 63 L6- 8 Mr Chatwick: **Both ends of the bar table have made enquiries as to placing the material before Your Honour so Your Honour is aware of Mr Binse's circumstances.**

Page 63 L27 - 29 Mr Chatwick: **I would submit its part of the duty of the prosecution to inform Your Honour as to Mr Binse's circumstances just in fairness to Mr Binse.**

Page 63 L30 His Honour: **I agree with that. Thank you for that.**

Page 69 L30- 70 L3 Mr Holt: In Acacia Mr Money confirms that the small exercise yard which is just for him of his cell, he has access to that for only between one and three hours per day. He is on his own for between 22 and 23 hours per day.

Page 70 L14- 16 Mr Holt: I might say, that he will be housed in those conditions for the duration of whatever sentence Your Honour imposes upon him

Page 70 L20 -21 His Honour: **Has he been housed under those conditions previously ?**

Page 70 L22 - 25 Mr Holt: **He has. He was under those conditions not long after he first went to Pentridge as a 17 -year – old In H Division and right through his history of incarceration in Victoria and New South Wales - - -**

Page 70 L26 -27 His Honour: He has been a prisoner for the 28 of the last 33 years, hasn't he?

Page 71 L23 –26 Mr Holt: **He's simply been - the word institutionalisation was possibly made for Christopher Binse in the terms of years and the nature of incarceration**

Page 71 L28 –29 Mr Holt: I'm sorry – **we started this discussion by talking about the reality of the practicality of his incarceration history.**

⁹³ His Honour Terry Forrest sentencing 2014.

²⁹ SUPREME COURT OF VICTORIA EVIDENCE 8TH SEPTEMBER 2016.

Page 72 L3 –6 Mr Holt: **He spent almost all of his time in New South Wales In Goulburn, colloquially referred to as the Supamax prison in Goulburn, essentially in solitary confinement conditions.**

Page 72 L21 –24 Mr Holt: **which are a voluminous record of a lifetime spent in custody commencing at an age where it might probably be said that nobody ought to not be in custody, or at least not in those conditions.**

Page 77 L19- 24 Mr Holt: In any event, through some interstate difficulty he served the entirety of the 13 years and was released, as he describes it, with a one way ticket to Sydney and half a centre link payment in order **to commence a life after 13 years of incarceration, much of which was spent at Goulburn Supermax,**

Mr Holt: **Pamela Mathews evidence Page 163 L12-23: You've described in your report receiving and reviewing lengthy custodial prison records and reports, and medical reports as well? - - - Yes. You've noted that it appears from those reports that he's spent a dramatically large period of time since he was in custody first? - - -Yes. And a substantial period of that time in custody, in very secure environments? - - -um. I think my calculations in regards to secure environments are roughly around 20 -odd years of the time he has spent in custody. Those secure environments in management facilities? -- - In various management facilities.**

Page 164 L21 - 24 His Honour: You can work on the basis that I'm familiar with H Division. I'm thinking more Goulburn and – you've talked about 20 years. I want to understand the sorts of environments - - - ? - - - Well, I've only been in H Division

Page 165 L9 – 10 His Honour: Well, I think, Ms Mathews, I'm really more interested as I tried to indicate to you about the historic stuff.

Page 192 L7 – 11 Mr Holt: **There are, of course, management facilities with 23 hour lockdown, and they are not the only way in which either this jurisdiction or others here or elsewhere in the world have chosen to deal with difficult prisoner's.**

Page 193 L10 – 13: **because of course management units have simply failed to do anything over that period of time that Mr Binse has been in them, which commenced, as Your Honour knows, begun at a very early age.**

Page 204 L11 -14 His Honour: **To what extent am I entitled to take into account the circumstances of his incarceration if I take the view that an important purpose of sentencing is the protection of the community?**

Page 204 L15 Mr Holt: Your Honour - - -

Page 204 L16 -17 His Honour: I know you were hoping I wouldn't ask that question

Page 204 L18 -19 Mr Holt: **I'd invited it, to some extent, necessarily by the way in which the plea's been conducted.**

Page 204 L20 His Honour: Yes.

Page 235 L17 -19 His Honour: **Or, "You're behaving badly, I'll continue to punish you by keeping you in solitary confinement", and it becomes a self- perpetuating cycle.**

Mr Holt: Page 235 L20 -22. **There is no greater indication or illustration of that than this case, and I can't take it any further than that. If the court pleases, those are my submissions.**²¹.

Page 144 Line 26- Page 155 Line 16.

OFFENDER: Okay, all right. Thank you. Isolation. Now I need to just raise a couple of things, revisit a couple, some evidence that was previously introduced or conveyed to you in the previous hearings and plea hearings. I would sub - one second. Right. They ask about my

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

placement in custody, it's effectively isolation in Acacia Barwon unit, okay. And then you ask at p.70 line 20-21, His Honour: "Has he been housed under those conditions previously?" Page 70 line 22-25, Mr Holt: "He has. He was under those conditions not long after he first went to Pentridge as a 17-year-old in H Division and right through his history of incarceration in Victoria and New South Wales", okay, and then Your Honour says p.70 line 26-27: "He has been a prisoner for the 28 of the last 33 years, hasn't he?" Mr Holt replies, 71, 23-26: "He's simply been, the word institutionalisation was possibly made for Christopher Binse in the terms of years and nature of incarceration". Okay. Now, then he says p.71 line 28-29, Mr Holt: "I'm sorry, when we started this discussion we were talking about the reality of the practicality of his incarceration history". Then he says p.72 line 3-6, Mr Holt: "He spent almost all his time in New South Wales in Goulburn, colloquially referred to as a supermax prison in Goulburn, essentially in solitary confinement conditions". Okay. And then he goes on to say, p.72 line 21-26: "Which are a voluminous record of a lifetime spent in custody commencing at an age where it might probably be said that nobody ought to be in custody, or at least not in those conditions", okay. Then he goes on to say p.77 line 19-24: "In the event through some interstate difficulty he served the entirety of the 13 years and was released as he described with a one way ticket to Sydney and half a Centrelink payment in order to commence a life after 13 years of incarceration, much of it which was spent at Goulburn supermax". Your Honour, I can prove and you were asking for, you were concerned - one sec. I'll just go - this is, Your Honour says - I'll just go to p.164, just leading up to that now, okay. 164 line 21-24, His Honour, "You can work on the basis that I'm familiar with H Division, I'm thinking more Goulburn and you've talked about 20 years, I want to understand the sort of environments". Well I've only been in H Division, that's Pamela Matthews, you know. **Then Your Honour says, p.164 line 9-10: "Well I think, Ms Matthews, I'm really more interested, as I tried to indicate to you, about the historical stuff". So you were trying to gauge the nature and exposure and the periods of isolation I've been subjected, how I probably react or how - if I'm immune or how he fares, all that sort of stuff. That's what I'm assuming. I don't know - - -**

HIS HONOUR: The reason I was interested is because it provided an evidentiary foundation for Ms Matthews' opinions.

OFFENDER: Okay.

HIS HONOUR: That's why I was interested.

OFFENDER: Okay, all right. So the thing is I'd like to tender to the court, Your Honour, some correspondence to me from the New South Wales Justice Government in response to how long I've had a PSO. I've never spent one day in Goulburn supermax, not one day.

HIS HONOUR: Thank you.

OFFENDER: Okay. I was actually, and I'm proving the other documents to come, Your Honour, okay. I was actually in a C class at a minimum in Junee at one stage for about four months until I was found in possession of a mobile phone, unauthorised, and I was caught and that led to be tipped from C class back to Goulburn. But I've never been at any Goulburn supermax. I spent - - -

HIS HONOUR: So there's a distinction between Goulburn prison and Goulburn supermax? OFFENDER: Yeah, yeah, that's the whole point.

HIS HONOUR: Yes.

OFFENDER: There is, there's a Goulburn (indistinct), then there's this supermax. It's where all the terrorists, hard-core people, isolation, all that sort of stuff.

HIS HONOUR: Yes.

OFFENDER: I never set foot there and I'll show you the documents that I'm going to tender now, okay, again the 14 November stuff, okay, I'll show that.

HIS HONOUR: I'll just put this document, we'll give these received documents an exhibit number. These are - this is a letter dated 30 September 2014 from New South Wales Government Justice Department, together with enclosures. That will be Exhibit L.

#EXHIBIT L - Letter dated 30/9/2014 from New South Wales Government Justice Department, together with enclosures. -

OFFENDER: If

it - - -

HIS HONOUR: Have you seen this, Mr Rose?

MR ROSE: I have a copy, Your Honour.

HIS HONOUR: Yes.

OFFENDER: Your Honour, if it suits - if it pleases or assists you in any way I have a copy of what I've just read out, the passages from the plea submissions.

HIS HONOUR: Yes.

OFFENDER: If you need to - if that assists.

HIS HONOUR: We've got a transcript and we've got the page references from you.

OFFENDER: If you want the documents there, it's easy, I can put them up. I'll put them up.

HIS HONOUR: All right.

OFFENDER: Thank you. What I was going to say, just - you were suggesting I spent 20 years - by Ms Matthews and Mr Holt, p.164 line 18-20: "A substantial period of that time in custody was in very secure environments. I think my calculations he goes to secure (indistinct) around 20-odd years of the time he has spent in custody", you know.

HIS HONOUR: Yes.

OFFENDER: I've done - and reports the other day and the sentenced prisoner movements - - -

HIS HONOUR: The prison movements record, I've got that.

OFFENDER: That was identified. It identifies exactly who you are, location, how long, movements, all that sort of stuff. If you do the arithmetic, I haven't got a calculator and I wasn't good with maths.

HIS HONOUR: Yes.

OFFENDER: Okay, but by my calculations, okay, in New South Wales management, okay, not 13 years, okay, or whatever is suggested, or the whole in supermax in Sydney. I spent just under nine years in a super - not, supermax, in Goulburn - sorry, in Sydney and going around custody, okay. Out of that nine, just under nine years, three months, three years three months, okay, I'd spent in isolation management units.

HIS HONOUR: Yes.

OFFENDER: Okay, upon my arrival from Victoria to New South Wales. So in the end I was placed in minimum security and all that sort of stuff, okay, until I stuffed up, you know, but for the majority, two-thirds of my time I was in mainstream in general population, not in isolation maximum.

HIS HONOUR: So, leave Sydney to one side, in New South Wales were you in custody for nine years or 13 years?

OFFENDER: No, the whole sentence.

HIS HONOUR: Yes.

OFFENDER: The whole sentence, I entered with 13 with a ten, I ended up doing the 13, okay.

HIS HONOUR: Right.

OFFENDER: That's Victoria and New South Wales combined.

HIS HONOUR: Yes.

OFFENDER: Okay. But I done about four years in Victoria before I was transferred up, okay.

HIS HONOUR: Yes.

OFFENDER: And then

I - - -

HIS HONOUR: Nine years.

OFFENDER: Yeah, just under nine years.

HIS HONOUR: And two-thirds of that, which is six years.

OFFENDER: Yeah.

HIS HONOUR: Was spent

in - - -

OFFENDER: General population.

HIS HONOUR: General population.

OFFENDER: Yeah, yeah, with the boys.

HIS HONOUR: I understand that.

OFFENDER: You know, so it's not like - and I get - so in management, and then in Victoria if do you the math, in management both in Victoria, okay, the seven years, seven years and ten months, that means, like, on top, so it comes down to both states, and that's pre - in management in Victoria, pre-2006, okay, before someone come into custody on these offences, okay, or used to be, in 2012, **in seven years ten months and all up from my figures in management in Victoria to May 2014 was nine years six months. That was nearly half. Sorry, I'm - in Victoria from pre-2006, okay, was seven years ten months. And then from the day I was sentenced, okay, before you at the time, okay, it was in Victoria alone, nine years and six months, okay, so it's a big, big, big discrepancy from 20 years. That's the point I'm making. I'm not worn from isolation, I'm not worn - I'm not, you know, like institution - like they're trying to suggest, you know, that that's the only way they can house me or contain me or, like, through my actions, my behaviour.**

HIS HONOUR: Yes.

OFFENDER: That's the thing they're trying to illustrate, that it was previously conveyed to the courts. That's not the case at all, it's false. It's misleading, you know. It puts me in a very damning light, you know, that, "This person, this is the only way we can manage him. We put him in management", okay, and it's because of - for his own actions, you know, he's responsible for this, you know, no one else is responsible.

HIS HONOUR: Yes.

OFFENDER: That's what they've suggested before. It's not the case, Your Honour, you know. There was another comment by - getting back to - this is probably a better one. If I can just say this is the point, that's the point I'm trying to just illustrate, okay. His Honour, 165 line 13-15 - sorry, Pamela, I'll retract that, okay. Pamela Matthews' evidence, p.178 line 9-12: "In your evidence you referred to a reference or an entry by a psychologist from New South Wales referring to a recommendation and issue to be (indistinct)? Yes, there was a report of a senior psychologist Claire (indistinct) 29 July 1998", okay. Then it just goes on to say that they should reduce the conditions, this and that. So then they say, she goes on to say, at that point, at p.178 line 17-19: "At that point he is sent for 12 months to another prison but then he's returned to that particular prison", which is Goulburn. Pamela Matthews p.178 line 20-21: "Yes". Mr Chapman: "Yes, isn't that sent to Lithgow? Yes, that's right". Again Mr Chapman, Ms Pamela Matthews, p.178 line 22-25: "So do you know as a consequence of the recommendations those conditions were relaxed that there

was some relaxation to those conditions? Yes, albeit for a 12 months' period, yes, yes". Okay. And then they say p.178 line 26-29: "So he was sent to Lithgow? Yes. What did he do when he went to Lithgow? I think there was more difficult behaviour in Lithgow and that's why he was sent back from memory". Okay. Then 178 line 30-31, Mr Chapman: "So he did do, do you know whether he responded to that or was he difficult to manage in that circumstance?" Okay. Page 178 line 31 to 179 line 4: "Mr Binse has always been difficult to manage in custodial settings and he seems to have periods of where he can be a little settled, but he in general has a history of being difficult in custodial settings". Okay. Then Mr Chapman says again, 179 line 5-8: "So you have relaxed his conditions but there's been difficulties afterwards, at least one you have been able to, one that you've been able to, well, one that I've been able to identify". So that's the thing, that they're trying to suggest, and that was - that incident they're talking about, okay, I'm going to refer that it was no fault of my own, that I was removed back to Lithgow, that an attempt had been made on my life, I was stabbed in the chest. There's reports about that, a duty of care. Okay. And I was sent - I was removed from the environment, okay, and that was on p.167-168 of my plea material. I refer to the incident there. I say that in detail. It's not because I'm moved back - I'm moved back into management, and I will - from Lithgow I was put in like a, they call cell - segregation, okay, for two weeks until they worked out what they were going to do with me, okay, for my safety, okay. And I wasn't the aggressor, I was the victim in this instance.

HIS HONOUR: Yes.

OFFENDER: Okay. Till they worked out they put me on the truck back to Lithgow, and actually the person that attacked me was in the truck too, he's in another compartment. He yelled out and said - and we were both in the mainstream. I'm like in segregation as a result of this, I'm in C (indistinct) in Goulburn, which is a mainstream unit, you know what I mean, with all the other language, I'm in a yard with like 30, 40 people, other inmates. That's the point I want to try and illustrate and exercise, that it wasn't like I've been - - -

HIS HONOUR: No, I understand what you're saying. I dealt with you last time. There are some corrections to the level of isolation and management that you have been subjected to over the years and you make those corrections, but I understand that.

OFFENDER: *All I'm seeking is just to establish, identify all the anomalies in the past.*

HIS HONOUR: Yes. You don't need to identify every one.

OFFENDER: *No, I don't need to. That's the pity. I haven't got enough time, Your Honour.*

HIS HONOUR: No.

OFFENDER: *Seriously. I'm listing the key points that I think are significant.*

HIS HONOUR: Yes.

OFFENDER: *Okay. We could go back to Steve, the shooting, all sorts of stuff, you know, with Keilor Park Drive being shut down, the shots fired. They weren't fired - that's another issue and I'm not going to take that any further.*

HIS HONOUR: Yes.

OFFENDER: *I'm not focused on that. This is - if Your Honour, if I could give this - hold on a sec. It just goes to show, too, this has an incident report, okay, for the period, my time in custody through that. So all the movement, placement movements, okay, and incident reports and there's about one, two, three, four, five, six, seven, eight, nine, ten, 11, 12 - 12 incident reports in nearly nine years. That's like 1.3 or something like this - a year. That's not a troublesome person. You know what I mean.*

HIS HONOUR: Yes.

OFFENDER: *Really at the end of the day it's - I won't say, Your Honour, it's exemplary but, you know what I mean, for a person of my history and stuff, you know,*

that's - - -

HIS HONOUR: All right. Well, we'll have to identify the exhibits afterwards.

MR ROSE: I'll just have a quick glance at them.

OFFENDER: *You know what I might do, Your*

Honour - - -

HIS HONOUR: We'll just let Mr Rose see this and I'll

then - - -

MR ROSE: I'll get a copy later, Your Honour.

HIS HONOUR: Right.

#EXHIBIT M - Letter dated 13/11/2015 from New South Wales Government Justice Corrective Services Department with attachments setting out the prisoner's prisoner placement in New South Wales. -

OFFENDER: *Your Honour, what I might do, I might tender this affidavit instead of the one I just read out because most of them, there's errors in this one too. It's just there was some passages in this, so this goes to isolation.*

HIS HONOUR: Yes.

OFFENDER: *This was prepared last year some time before these events and they were, they like identified certain aspects on isolation and stuff that were in question, the anomalies identified.*

HIS HONOUR: Yes.

OFFENDER: *So if I could possibly - - -*

HIS HONOUR: All right.

OFFENDER: *That addresses the Victorian and New South Wales place conditions, anomalies.*

HIS HONOUR: You read all that, did you, Mr Rose?

MR ROSE: Sorry?

HIS HONOUR: Read all that, did you?

MR ROSE: No, I glanced at it and I'll get a copy in due course, Your Honour, but it reflects other material that I've seen.

HIS HONOUR: Yes.

OFFENDER: *Your Honour, if I could - I mean the isolation, you've mentioned in the past - - -*

HIS HONOUR: These are the submissions you've just taken me through. These are the written submissions of what you've just taken me through.

OFFENDER: Yes.

HIS HONOUR: Yes, all right. It's a documented headed "affidavit of Mr Pecotic dated 1 November 2015" and that will be Exhibit N.

#EXHIBIT N - Document headed "affidavit of Mr Pecotic" dated 1/11/2015. -

HIS HONOUR: I won't read that now. I'll have a look at all these later.

OFFENDER: Yes.

HIS HONOUR: But it does look to me like this has basically been your kind of form that you've taken me through.

OFFENDER: Yes, you can tell by the highlight stuff, you know.

HIS HONOUR: Yes, okay. .³³.

BIBLIOGRAPHY:

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

³³ SUPREME COURT OF VICTORIA EVIDENCE 27th MARCH 2017.

⁹³ His Honour Terry Forrest sentencing 2014.

³³ SUPREME COURT OF VICTORIA EVIDENCE 27th MARCH 2017.