

Dr Carol Newlands, Dr Michael Epstein Medical report 10 May 2013. Ignored!

Doctor Danny Sullivans Direct Influence On P.T.S.D condition:

Page 30 Line 15- Page 32 Line 23: MR HUGHAN: Now, ground four.

WHELAN JA: The proposed ground four, the same situation there? M

R HUGHAN: Yes, your Honour, I have already addressed this in part in discussing the earlier things, but let me put it into its proper context what I say can and should have been dealt with. We know that there is material upon which a medical panel which consisted of two doctors and two psychiatrists seeing Mr Binse in April 2013 for a matter completely unrelated to the offending obviously enough. It related to his being assaulted in May 2006 and further in July 2007 and how that should be dealt with. The panel concluded and it's on the last page of the document- the penultimate page of the document I think it is, signed on the 10 May 2013 on behalf of the panel by Mr Leech. "The panel concluded that the complainant is suffering from post- traumatic stress disorder relevant in part to the incident of 32 May 2016 and the assault of July 2007 and also anti-social personality disorder. The argument here is that the **lack of having this information before those that are assessing Mr Binse for the purpose of the plea and the failure of the material to be failure to place the material before the Judge constituted a miscarriage of justice because on a very significant question, that is whether the applicant in this context actions- whether his conduct was cause to- caused or contributed to by the disorder of a nature that impairs mental capacity or impair rational thinking, his Honour was not as assisted as he should have been because this material wasn't provided to the court. So you've got ultimately the court being told, "There's post- traumatic stress disorder symptomology but nothing upon which we would be able to base a conclusion that would assist the court in terms of the application."** Now, faced with the material it's very difficult then to put forward the proposition- it's not possible to put forward the proposition that there's no disorder of the nature that impacts on moral culpability in terms of causing or contributing to the offending. In my submission, had this material been made available that the whole picture would have looked at and should have been looked at in a different context. If the court- if his Honour had been advised that this fellow has been assessed by a psychiatrist in 2013, within eleven months of the offending ending in May 2012 I should say is the range, but between eleven and 15 months of the offending, that does paint matters in a different light to those as they were depicted before his Honour on this issue. The failure to put that material before the court is such that – sorry, I'll start that again. If this material had been placed before the gap that's perceived by counsel acting for Mr Binse at the plea and the inability to make the connection between offending and moral culpability and the disorder, that gap has at least the capacity to be filled in because the behaviour is recognised to have been carried out by the disordered person. But the nature of the disorders is not fully fleshed out in the sentencing process here, and of course as a consequence of it not being fully fleshed out the correct analysis doesn't take place and ultimately in my submission that gives rise to a miscarriage of justice in the circumstances, that is in essence if the court had been provided with this information, if the experts had been provided with this information, then it's a completely different picture on that very critical question.⁸⁰

Crown MR BOYCE: Page 38 Line 20-page 39 Line 12: If you can show a connection that is a realistic connection between such impairment and function as there exists and the commission of the

⁸⁰ Supreme Court of Victoria, Court Of Appeal. Christopher Dean Binse S APCR 2014 0121, Before Judges Justice Whelan, Beach and Mc Leish JJA Melbourne. 31 May 2016. Counsel for the Appellant Mr G Hughan. Crown counsel Mr C Boyce SC

offence then ipso facto you will have a reduction in moral culpability. You would also have a reduction in, you would have thought, prima facie in specific deterrence and in general deterrence. It would be unfair in those circumstances if the offender is suffering from an impairment of judgement to hold him or her up and make an example of that person. I don't mean any – of course the six considerations aren't meant to be all that there is, but if you look at it in those simple terms in my respectful submission what his Honour is saying is you're not putting it that there's a connection between the impaired mental functioning on the evidence that you have such that it would raise considerations of both moral culpability, specific deterrence and general deterrence and Mr Holt answers that, "No, it's not, your Honour," and yes, Mr Holt mentioned moral culpability in terms. Mr Holt – I don't find in the plea any reference by Mr Holt to specific deterrence and general deterrence in so far as it might be relevant under the a Verdins heading given the way in which he put the plea.⁸⁰.

Crown MR BOYCE: Page 39 Line 20-page Line 21: The Judge gave Mr Holt everything that he wanted on that score, given the way in which the plea was put.⁸⁰.

Crown MR BOYCE: Page 39 Line 21-page Page 40 Line 22: My learned friend seizes upon those – I think there's four or five words that confined it to, I think it's in the three or four, I can't remember which one of Verdins, which says specific deterrence or general deterrence, either at the time of the offence or at the sentence.

BEACH JA: I think it's both.⁸⁰.

MR BOYCE: Both, yes, of course and says the Judge has erred implicitly here by not bringing the specific and general deterrence moderation to bear in the imposition of sentence here because at the time of sentence clearly that matter could be put. The first answer to it is that it was never put that way by Mr Holt to his Honour. Secondly, it would in my respectful submission be somewhat curious for an offender who could not establish the connection between whatever impairment there was and the commission of the offence to be able to rely upon it at the time of sentence unless there had been some form of worsening of the condition from between offence and sentence, or if indeed, to use the words of Justice Charles in Tsiaris' case, it it had supervened since the offending'. You can imagine an offender who couldn't make out the connection at the time of the offence, but in respect of whom a condition has arisen at the time of sentence and it would because of the existence of that condition be unfair not to moderate specific and general deterrence. But here where there was no evidence of such worsening or supervening, here the way in which the case was put – the diagnosis was referred to this by Honour, it's symptomology for post- traumatic stress disorder.⁸⁰.

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SIEGE P.T.S.D. Condition Evidence Proven:

Page 60 L14- 15 Mr Chatwick: Just for completion, could the last CCTV that was played, which was footage of the siege is tendered.

Page 60 L18- 19 # EXHIBIT 13 – DVD showing CCTV of various aspects of siege
Page. 156 L3 # EXHIBIT C – Defence CD compilation of siege footage.

Re-living Siege C.C.T.V. footage P.T.S.D p 154 L9-155 L26, 156L1-8.

Pamela Lynn Mathews evidence Page 160 L10 -11 –

Mr Holt: Might my instructor approach Mr Binse for a moment, Your Honour.
Page 160 L12 His Honour: Yes.

Pamela Lynn Mathews evidence Page 160 L13 -14 –

Mr Holt: Might I get standing permission for that to occur, if it needs to?
Page 160 L15 -16

His Honour: Yes that can occur, whenever your instructor deems it appropriate.
Pamela Lynn Mathews evidence Page 160 L17- 18 –

Local Plan Files Notes- Location doc entry dated 27/ 1/ 2013. "Chris handed in his T.V. to staff today", "stating that the images of war in Syria & other negative stories from around the globe are triggering significant Post Traumatic Stress Issues". "He needs to deal with these emotions" "hence giving in his T.V. to staff".

Psych services engage in constant consultation with prisoner".

Local Plan Files Notes- Location entry dated 28/ 1/ 2013.

"Chris is still showing signs of stress"

Geo Care Medical report entry dated 28/01/2013. Psychiatric Nurse. Whilst on Unit this Am. Staff notified self prisoner had handed in T.V. as "was sick" of watching so many people die in Syria" Nil risk identified.¹⁸

Page 76 Line 18- 31: You have seen - seen some of the footage when we played the video - the footage of the siege. You know, I was uncontrollable, man. And that was at the time of sentencing, so before my sentence, during the course of my sentence, I didn't know that. And I've got the - I've got the media in front of me, man. Full house. You see them all fucking all gawking at me, putting me down as sadness now, you know what I mean? Your dignity, you know what I mean?

HIS HONOUR: Yes.

ACCUSED: I am trying to hide my head here like this.

¹⁸ Prison medical reports.

HIS HONOUR: Steady on. Slow down. Take a deep breath.

ACCUSED: Yeah.

HIS HONOUR: Focus. Stay focussed.³²

Page 92 Line 11- Page 93 Line 11:

Psychiatric nurse. "Whilst on unit this morning, okay, staff notified self prisoner had handed in TV as was sick of watching so many people die in Syria (indistinct)." I was sick of the bombings. And not just the killings and stuff too, okay, but sick of seeing the explosions. Once I see the explosions, it's triggering off. You'll see the CCTV footage I'll refer to that was - we'll get to that in a sec, but there's a lot of explosions, okay? You see the plumes coming out, like full-on explosions, okay. You can hear this, man. You know what I mean? There's at least 11 of them. They're designed to disorientate you. They turn your brain to jelly, okay? And when you hear them, they're just boom, boom, boom. And things were blowing up all around me. It's front line, full-on war zone experience. You know, like, I'm literally shitting myself, Loretta. We'll get to that too. Loretta - - -

HIS HONOUR: Can I again interrupt for a moment? You are referring to this because you dispute the line in Dr Sutherland's report attributing the handing back of the TV to radioactive emissions.

ACCUSED: Yeah, yeah, hundred per cent. I challenged that.

HIS HONOUR: Yes.

ACCUSED: These are - - -

HIS HONOUR: He doesn't say in his report that that is why you handed it back. He says that that's what you said to him and you challenge.

ACCUSED: Exactly. That's right.

HIS HONOUR: Yes, yes, okay.

ACCUSED: Exactly. Exactly.

HIS HONOUR: I understand that. You don't need to develop that point.³²

Page 101 Line 9-20:

*MR PECOTIC: Because now - now we enter into the - the siege stuff, okay, because yeah, if we - if we can, we still remain, but that was just - that was, like, one episode, because in the siege, the siege was my - the - the - my actions, conduct behaviour, were attributed to a different, like, different events, traumatic events over years, I feel. By unravelling, by exposing, by seeing things, okay, I was able to decipher the links connect. It's different, more than just one layer, okay? I've got a number of layers of different events that contributed to things, and this is the material that I want to tender to the courts*³².

³² SUPREME COURT OF VICTORIA EVIDENCE 24^H MARCH 2017.

³² SUPREME COURT OF VICTORIA EVIDENCE 24^H MARCH 2017.

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105 Line 3-12:

MR PECOTIC: Now, there was a disc that was in amongst the material that I'd sent - post, sent to you last year in amongst the discs. That - there's a disc there that is actually identified as in Roman numerals, (ii), No.2 in brackets, (ii), and then four x's, okay, then a bracket, then .1, okay? That's the siege - that's the CG exposure exposure to the flash bangs and stuff, okay, that I was exposed to. Now, if I can – and that shows the true extent, and I don't want it to be exposed to this. If he – there's no need for it to be played in the courts. ³².

Page 105 Line 18- Page 106 Line 2:

ACCUSED: Thank you. Thanks Your Honour, I appreciate that. What I was going to say is, Now, you seen the impact it had, just watching them, viewing them, the CCT footage, okay? So, I don't really feel comfortable in putting myself needlessly through that. You can view that yourself, really. I don't need to see it again. But the thing is, on that disc, there is a, like a guidance of times and stuff, you know what I mean, that – that – that I indicate as a guiding tool to when the explosion, certain things are, you know, when the action happens, and stuff, to try and – so you don't have to watch the whole, because some of the, like, some of the material in one hour blocks, okay, so, instead of waiting for it to start, whatever, I've given it like a list of instructions. Watch – these are the times to follow on whatever. ³².

Defence Counsel Saul Holt previous lies exposed on P.T S.D condition:

Page 106 Line 20- 24: I'll refer to some of the evidence I'm given by Sol Holt on the matter, you know? So, Your Honour, we've already addressed how the exposure to stuff on the TV caused me to hand in my, my TV. ³².

Page 138 Line 4- Page 139 line 1.

Your Honour, it says, 155 line 8, His Honour, 'This is about five minutes before his arrest', and at p.155 line 8, Mr Holt, "About eight minutes", okay, so, yeah, eight minutes before my arrest. It says about eight minutes, okay. Then it says p.154 line 12-15, Mr Holt, "The police, and again I make no comment on the facts behind him but fired a set, a set of what are called flash bang or concussion grenades into the house". Now, it's your view, you can clearly identify, you can hear them, I mean, the extent. They don't, they go way beyond a set. Okay, we're in double figures. Seriously. So that's the true extent of exposure that I was subjected to that was withheld and, um, um, um, and concealed in the past and then, you know, and then he says - -

³² SUPREME COURT OF VICTORIA EVIDENCE 24^H MARCH 2017.

³² SUPREME COURT OF VICTORIA EVIDENCE 24^H MARCH 2017.

³² SUPREME COURT OF VICTORIA EVIDENCE 24^H MARCH 2017.

HIS HONOUR: You can sit down, if you like.

ACCUSED: Okay.

HIS

HONOUR: You don't have to. Your call.

ACCUSED:

*Yeah, yeah. That's, um, um, um - that was, um, um, Exhibit 13, happen to be Exhibit 13. So I've dealt with that. So it's just - so, you know, I understand what more than most, really I do, through what, um, um, um, people suffer and stuff like that and when I had to relive stuff, it caused me to understand, appreciate things a lot more, um, um, with people, how they're affected by my conduct, my hands, my actions and stuff like that and then, you know, that caused me to reach out to these victims to try and - even the past victims in the matters I was been previously dealt with by you, you know, because I didn't understand.*³³.

Page 142 Line 14-28:

You're

*exposed to these things so we have, you know, for example, a siege, okay, events that led me to react in the way from previous past assaults, and make them to be apprehensive, concerned, alarmed, in fear of people in blue, especially SOG, police, how I react in a certain way. Then I've got another factor that I mean I was shredded to pieces. I've never been injured to this extent in all my life, Your Honour, by others, you know? I've been in a lot of incidents in gaol, never rendered in such a state. And emotionally and physically, okay. So when I see people like that it disturbs me, it triggers things, okay. They're just two - I just grabbed two specific incidents, okay, that I can understand and relate to that contributed, that identified me to react in a way I reacted.*³³.

³³SUPREME COURT OF VICTORIA EVIDENCE 27th MARCH 2017.

³³SUPREME COURT OF VICTORIA EVIDENCE 27th MARCH 2017.