

Part 8 - The evidence of Mr Caesar

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Mr Peter Caesar gave evidence at the Section 12 hearing of particular relevance to count 9. However, it is also of general significance and the account and findings of Davidson ADCJ in relation to that evidence were as follows:

"Mr Caesar was an insurance loss adjuster when he first met Mr Thomas who was then in the process of resigning from the New South Wales police force. He said that Mr Thomas had moved to Brisbane and commenced working with Mr Caesar for the same firm.

He and Mr Thomas had an amicable employment and social relationship at first. During the course of it, Mr Caesar claimed that Mr Thomas had shown him files labelled "New South Wales Police" including one pertaining to Ms Catt (H/T p1565-8).

In 1991, after Mr Thomas had returned from Sydney where he had given evidence in the Roseanne Catt trial (he commenced his evidence on 27 June 1991, and the jury returned their verdicts on 11 September 1991), Mr Caesar claimed that Mr Thomas had spoken to him about that case. Mr Thomas had described Ms Catt as the lowest form of a slut and said, "It's common knowledge that I planted the gun" (H/T p1568-9). This of course is more directly relevant to Count 9 rather than Count 5 and is dealt with also in that context later (para. 501). Mr Caesar said that in discussing the Roseanne Catt case with him, Mr Thomas had also described Mr Catt as "a mate".

Mr Caesar gave evidence of a workplace dispute between an employee, Ms Cheers and Mr Thomas which had led to litigation. He claimed that he had overheard an argument between Ms Cheers and Mr Thomas during the course of which Mr Thomas said words to the effect that he would "do

Leanne in as he did Ms Catt, she was still rotting in gaol in Sydney" (H/T p1578).

In cross-examination on the basis of a statement (H.Ex 30) made on 26 July 2001 to a detective sergeant of police then attached to the NSW Crown Solicitor's office, Mr Caesar conceded that Mr Thomas had not used words to the effect, "I planted the gun on her" but had said words to the effect, "There are things you have to do. This sheila was bad, and it had to be done".

Mr Caesar nevertheless insisted in evidence before me that Mr Thomas had "numerous times" said words to the effect that he had "planted" a gun on Ms Catt (H/T p1584). In an earlier part of the same statement, H.Ex 30, Mr Caesar is recorded as having said that Mr Thomas had said to him words to the effect that, "It's common knowledge that I planted the gun on the bitch". Notwithstanding any apparent inconsistency, I am satisfied that the statement of 26 July 2001 (H.Ex 30) contains the substance of what Mr Caesar alleged in evidence Mr Thomas had said. Mr Caesar nevertheless insisted in evidence before me that Mr Thomas had "numerous times" said words to the effect that he had "planted" a gun on Ms Catt (H/T p1584). In an earlier part of the same statement, H.Ex 30, Mr Caesar is recorded as having said that Mr Thomas had said to him words to the effect that, "It's common knowledge that I planted the gun on the bitch". Notwithstanding any apparent inconsistency, I am satisfied that the statement of 26 July 2001 (H.Ex 30) contains the substance of what Mr Caesar alleged in evidence Mr Thomas had said.

Mr Caesar was further cross-examined on a document, H.Ex 7, being a written memorandum by Mr Caesar to Mr Thomas in which Mr Caesar appears clearly enough to be suggesting to Mr Thomas that they should take steps dishonestly to exclude a joint venturer with them in a business enterprise from his money (H/T p1586-

7).

Mr Caesar was also cross-examined on a file register kept by Mr Thomas. Mr Caesar said that after Mr Thomas had left he had found the register in a communal office, not Mr Thomas' personal office. Mr Caesar agreed that he had provided a Four Corners television programme, in which adverse criticism had been made of Mr Thomas, with material apparently from the file register (H/T p1588).

Mr Caesar agreed in cross-examination that he had access to a diary containing details of mutual clients which he had supplied to Ms Catt after her release from prison. He agreed in effect that he would do anything to get back at Mr Thomas. He denied, however, making false allegations against Mr Thomas.

Mr Caesar agreed that he had sent material to some of Mr Thomas' clients, samples of which are contained in H.Ex 10 being newspaper clippings of 20 and 21 October 2000 relating to the Four Corners television programme in which Mr Thomas is associated with dishonest and criminal allegations relating to claims of insured persons. He agreed that he had distributed this material "just to get back at" Mr Thomas (H/T p1590).

Mr Caesar said that he had been prosecuted for fraud in Queensland at the instigation of Mr Thomas and was ultimately acquitted of these matters (see Pt H.Ex 8)."

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In the submissions to this Court the Crown challenges his Honour's findings with respect to Mr Caesar and submitted:

"Also, in his findings, in relation to this count, his Honour appears to have placed great support for his conclusion on the evidence by Mr Caesar in the section 12(2) hearing. As his

Honour said:

"The evidence of Mr Caesar as to Mr Thomas' alleged admission that he had 'planted a gun' on Ms Catt is fresh and, is capable of acceptance although from a witness whose credit is under attack. It is of substantial materiality.'

It is submitted that Mr Caesar was a totally discreditable witness. He had a strong motive to lie. He stated in evidence that he would do anything he could to get back at Mr Thomas because Mr Thomas reported him to police for fraud. And, he said, that he was a vindictive person.

Mr Caesar also said in evidence that Mr Thomas, contrary to his Honour's finding, did not say he planted a gun on the appellant but had said words to the effect 'There are things you have to do. This shiela was bad, and it had to be done.'

Mr Caesar also conceded in evidence that he had sent a written memorandum to Mr Thomas in which Mr Caesar suggested to Mr Thomas that they should take steps dishonestly to take rid off a fellow partner of the business of \$10,000 (sic).

Mr Caesar had provided a 'file register' which belonged to Mr Thomas to the ABC 4 Corners program. This file had been taken from Mr Thomas' office.

Mr Caesar also supplied the appellant with a copy of Mr Thomas' telephone diary.

Mr Caesar also admitted that he sent adverse material on Mr Thomas to some of Mr Thomas' client in an endeavour to destroy Mr Thomas. He said that he distributed this material 'just to get back at' Mr Thomas.

In the section 12(2) hearing Mr Thomas denied

that he said the words that Mr Caesar alleges he said.

It is submitted that his Honour erred in his finding that Mr Caesar would ever be accepted as a witness of truth particularly in any evidence he gave against Mr Thomas because of his hatred and vindictiveness against him."

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The submission that Mr Caesar did not give evidence in which Det Sgt Thomas said he had planted a gun on the appellant cannot be accepted. Although Mr Caesar may have said only that Det Sgt Thomas said he had "planted a gun" this could only be a reference to planting a gun on the appellant. In his statement made prior to the Section 12 hearing Mr Caesar related a conversation with Det Sgt Thomas in which the latter said:

"Ceez, its common knowledge that I planted the gun on the bitch."

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The Crown emphasises the fact that Mr Caesar had apparent motivation to hurt Thomas and may have been influenced by these matters in giving his evidence. However, although Davidson ADCJ acknowledged that Mr Caesar's credit was under attack his Honour found that his evidence was capable of acceptance by a jury.

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This finding is critical to count 9 and it is necessary to consider the consequences for the other counts if this evidence had been available at the trial.