

**Tuesday 18th of June 2019**

**C/o** [REDACTED]  
Senior Solicitor  
Office of The Director of Public Prosecutions (DPP)  
By email: [REDACTED]@odpp.nsw.gov.au  
**Ref Case No: 2017/387583 and 2017/388124**

**Other related matters still currently in process.**

**Original Equity Court Case No: 2017/00214962**

**Secretary of FACS v Paul Robert Burton and Dr Andrew Katelaris**

Summoned to Supreme Court of Equity in July 2017. Matter is currently being appealed to the High Court.

**High Court Case No: S106 2019**

**Paul Robert Burton v The Secretary of FACS**

Application seeking leave to appeal, matter to be determined on the 19<sup>th</sup> June 2019 in the High Court Canberra at 2pm.

**District Court (Collateral Abuse) Case No: 2018/00309486**

**Paul Robert Burton v Office of Director of Public Prosecutions**

Lodged application seeking leave to appeal, matter set down for directions Supreme Court Sydney Monday 8<sup>th</sup> July 2019.

**District Court (Battery) Case No: 2018/234630**

**Paul Robert Burton v The State of NSW (Police)**

This matter has recently been settled out of court.

**Criminal Matter for identical allegations as in the Equity Matter Case No: 2017/387583**

Charged December 2017, matter was summoned to the Supreme Court seeking withheld evidence and has again returned to the local court now that evidence has been provided.

Currently awaiting the last of the information relied upon in the brief of evidence that is being withheld from the defendants by the Children's Court.

## **SUBMISSION TO THE DPP**

The charges in case no's 2017/387583 and 2017/388124 should be withdrawn for all of the following reasons.

## **EVIDENCE WITHHELD FROM THE DEFENDANTS**

The Brief Of Evidence (BOE) provided by the DPP contained a number of documents that were withheld from the defendants. The first of this information was included in the original BOE and was not provided by the DPP or the Local Court until I appealed the matter to The Supreme Court. This process took nearly twelve months and the information relied upon by the

prosecution was finally provided before the hearing without reasons being given by the DPP on 7<sup>th</sup> February 2019, around 14 months after being charged. The information I have now received includes the following. (See Judgment AJ Harrison)

- 1.
- 2.
- 3.
- 4.
- 5.

The accused persons sought the remaining evidence listed in the BOE by way of an application to the Children's Court for the suppression order, including the statement of [REDACTED] and the minutes of order. The Court and the Crown Solicitor are now withholding that evidence.

Applications have been made to both parties for this further evidence to be furnished and at this time has not been provided. The evidence is crucial to my defence for two reasons.

Firstly to show that the orders were final orders in three of the charges and therefore out of jurisdiction for lack of a time duration, and secondly it was outside of jurisdiction for being made contrary to the Court Suppression Act. By the prosecutions own admission (as they claim no final orders were made) the orders relating to these three charges are clearly out of jurisdiction and show that the Children's Court Magistrate did not follow Statute Law.

Further to this, under the Act the Magistrate could hear from any interested parties. Both accused were interested parties but were not notified of the application or the right to make submissions to be heard.

This evidence is crucial to the defence in order to have a fair trial.

### **BEING CHARGED FOR IDENTICAL CHARGES IN TWO DIFFERENT JURISDICTIONS.**

The defendant's were originally summoned to the Court of Equity in July 2017. Interim suppression orders were enforced without having a fair opportunity to provide a defence. In late November 2017 a hearing that was claimed to be final occurred and whilst His Honour was making a decision with that matter, we were criminally charged anyway. As a result of this I have had no opportunity to defend myself in Equity and I believe that The Secretary of Family and Community Services did this deliberately to leave me in a position with temporary orders being applied to me for a now undetermined period of time. That is, he has used the Courts for an improper purpose and he has done this deliberately.

The Facts sheet in the criminal matter omits significant information, namely the fact that once I was made aware of the Sealed Court Suppression Orders, that I complied with those orders, that is, there has been no knowing breach of any Act or Statutory instrument by me.

Further to this, the Supreme Court of Equity has some of the alleged evidence that The Secretary has relied upon which has been deliberately fabricated by people within his own department, and other associated individuals they have been working with, this alleged

evidence has no association whatsoever with me. It most certainly appears that he has done this deliberately to falsely criminally charge me and consequently in my view is using the courts as a means to hide his own poor decisions and those of his department. Decisions with devastating impacts on families, children, and communities that affect them forever and in some respects can never ever be repaired.

### **LOSS OF THE RIGHT TO A SPEEDY TRIAL**

The failure of the DPP and The Courts to provide a complete brief of evidence in a timely fashion has caused this matter to drag on for over 18 months. As a result both accused have suffered prejudice.

One witness who was compellable is no longer even within the jurisdiction and it is doubtful that this witness can be brought within the jurisdiction to give evidence.

Although there is no right to a speedy trial per se, the accused have the right to a fair trial.

A trial, in which they may have lost the right to have a key witness called because of the delay of the prosecution, reduces the trial to the status of being unfair. The witness would have given evidence to ground a defence of duress. The witness is the mother of the child that the charges were laid in relation to.

The child in question, has now been restored to his family after nearly two years fighting in the courts, and is no longer even within jurisdiction. That is, the family has left the State of NSW because they were originally from QLD and the child has since been restored as he should never have been removed from his family in the first place. I am also in the court system because of this departments appalling actions and I am persecuted, not for allegedly releasing information suppressed by the courts, but as an all out blanket ban and attack on my freedom of speech. I state clearly to the public that Family And Community Services are a Department in absolute crisis, with uneducated caseworkers making decisions to remove children on spurious grounds, without a real evidence based system and without any known legal right or justification nor any judicial oversight. The inevitable results are situations like this one.

Had the prosecution been diligent, had the DPP provided the evidence they rely on in their brief, and if the courts could provide essential information from another local court where my alleged charges come from, the trial would have occurred within the usual timeframe and all of the witnesses would have been available.

### **UNABLE TO ENTER A PLEA.**

The accused are unable to plea without infringing the prohibition on impugning a decision of a Court, decisions of Courts are taken to be correct and cannot be impugned. Yet, a plea of Not Guilty does just this, the Supreme Court of Equity although it claims the matter is still interlocutory has without us having a fair defence, determined that both accused made the posts they are charged with making. This is because the exact same evidence used in the Equity matter is the subject material in the Criminal matter. Identical in every respect.

A Plea of Not Guilty is a plea that throws everything into doubt including the fact of whether or not the posts were even published. To plead not guilty is to impugn the decision of Justice Robb in the Supreme Court and as such forces me to enter a plea contrary to law.

### **OTHER RELATED COURT MATTERS**

The other related court matters, The High Court and the District Court Matter now seeking leave to the Court of Appeal, both impact this current criminal matter. The outcome of the collateral abuse claim could impact three of the ten criminal charges against me and the outcome of the High Court appeal, taken at its highest, could have the criminal matter completely withdrawn. Both these matters are currently in process listed for hearings in July and in the High Court on the 19<sup>th</sup> June 2019.

### **COST TO COMMUNITY**

This matter has and will continue to cost the tax paying public enormous amounts of money. Current estimates with combined expenses (Health Care, FACS, Police, Judiciary etc) could well exceed two million dollars, for one single child who should never have been removed from his family in the first place.

In the event the charges are not withdrawn there will be a jury trial on the S105 matters with a number of defences envisaged. As the defences run by the two accused may well be vastly different there is also a possible application for separate trials. Notwithstanding this I am also of the understanding we may be the first two people ever actually charged under section 105, an all out blanket ban on saying a child's name or using his image without any justification or reasons being provided. From July 2017 until August 2018 I faced possible contempt of court for wishing a certain child happy birthday, it is still questionable even today if I can do that without breaching the suppression orders.

As the Dept of Family Community Services never pressed to charge one other of the many thousands of people that were prolific publishers in alleged contravention of suppression orders or S105, it appears that either they were not really concerned, or that the two of us were simply charged to target us specifically, that is, it is vexatious.

This fact should be assessed against the cost incurred in time and resources.

It should also be noted that at the times it is alleged we were in breach we were never at that time properly notified that there were any suppression orders. It has already been found by the Supreme Court that a person cannot be held to account for breaching orders unless they are aware of those orders. As the suppression orders were never ever properly brought to our attention we cannot be guilty because we simply didn't know. While it is alleged that FACS informed us that the orders were in place, they never once showed us an actual copy of those court orders until we were summoned to the Court of Equity. And then after nearly six months of abiding by those orders, we were charged anyway.

From my own direct experiences I would never believe a word FACS said, and if the matter proceeds to trial it would be a part of our defence to show the jury that the Department of

Family and Community Services has acted disgracefully not just in this matter but in many. They lie, they steal children without legal right or justification, they make up stories, fabricate evidence and then in many instances they put those poor children in alleged care at a much greater risk of harm. I have had many communications with FACS long before this original incident back in May 2017 concerning children abused in their care. Even in regards to this matter we had documented and recorded meetings with Child Protection back in February of 2017. Rather than working with communities FACS manage their rather unique grievances through acts of violence, suppression, control, intimidation and fear.

If this matter proceeds to trial all of the above will be exposed, every associated individual in the BOE will be required to appear. I will be including many of my own witnesses directly associated with this matter, and providing further videos and documentation. This could in my estimate take at least four weeks to run, further to this the information contained in the brief includes several long livecast videos of well over an hour each that will all need to be viewed in full by the jury.

The information that will be revealed to both the Courts and the public will show quite clearly the truth of all of the above and I do not believe there is any possible chance of a conviction being proven beyond reasonable doubt in any of the charges.

For these reasons I believe it is in The DPP's best interests as representatives of the State Government, to withdraw this matter. I also believe the State Government would be far wiser to concentrate their time, energy and valuable tax payer resources on investigating their own Department of Family and Community Services who in my view (and thousands of other people), have far too much power, are largely unskilled and unqualified in key areas, and who are protected and never ever held culpable for what they call, errors with their financial units, and what we call, the wrongful removal of our children.

Kindest regards and God Bless

Paul Robert Burton

*"Speak out on behalf of the voiceless, and for the rights of all who are vulnerable." - Prov 31:8*

*"Not by power nor by might, but by spirit sayeth The Lord" - Book of Zechariah 4:6*