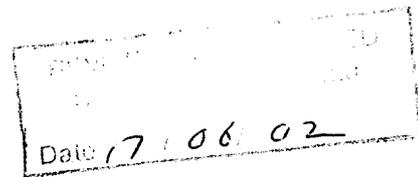




Transcript of Proceedings

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SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

JONES J

Application No 51 of 2002

T G WRIGHT MANAGEMENT SERVICES PTY LTD

First Applicant

and

DEAN ROYSTON McVEIGH

Second Applicant

and

ELENA STEVENS

Respondent

CAIRNS

..DATE 11/06/2002

JUDGMENT

As corrected

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

HIS HONOUR: In this matter the respondent has, by letter dated the 5th of June 2002, sought an adjournment of the application. To that letter, the respondent has attached a letter from Dr Mariam Hussain, Senior Officer in psychiatry at the Northwestern Mental Health Service in Broadmeadows, Victoria, indicating that the plaintiff was at the time the documents were received by her, suffering severe depression.

That by itself, would ordinarily lead to a request for an adjournment being granted, but in this instance, counsel for the applicant has opposed that course and has drawn to my attention the fact that other material which was received by his solicitors on the same day as the date of that medical report, indicates that the plaintiff was responding rationally to the material served upon her. That facsimile letter, dated the 27th of May 2002, has been tendered as Exhibit 2 and it clearly shows the transmission date as the 27th of May. It also shows that the letter was dispatched from a facsimile terminal of the Salvation Army at Jacana.

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It is not known whether the respondent received assistance in dispatching the letter, Exhibit 2, nor whether she has received assistance in the letter which was sent to the Court requesting the adjournment. That may well be the case and I would not therefore, necessarily draw the conclusion that is urged upon me that the respondent was in fact functioning at the time covered by the medical certificate diagnosing her suffering from the condition of severe depression.

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The other competing factor against the adjournment is the information that the bank which has security over the property, has given notice of its intention to exercise the power of sale. The liquidators are concerned that the bank-conducted sale might lead to a lesser result in terms of the amount that the properties will realise than one conducted by liquidators. The liquidators of course, would have the opportunity to negotiate and to sell by treaty and may well in the interest of creditors, achieve a more favourable sale price. 10

In the course of argument, counsel for the respondent raised allegations which are supported by reference to transcript of public examinations and findings in an immigration review tribunal of such gravity that I am loath to make orders based on those allegations without the respondent having an opportunity to be heard. In all the circumstances, it seems to me that the hearing of the application must be adjourned, but it should be on the basis that directions are given about service on the respondent and with strict time lines for her responding to the material. 20

I am satisfied that the respondent is aware of these proceedings, but the service on her of the documents has been done in an informal way by leaving the documents at a Legal Aid Centre with which she has had some association. Because of the nature of the allegations, the respondent should be formally served and my directions will cover the means by which service can be effected. 30

My orders will therefore be that the application be adjourned for hearing to the 23rd of July 2002. I direct that service of any proceeding or document, including the documents supporting this application, be effected on the respondent by posting by certified mail to PO Box 574, Glenroy Victoria 3046.

I direct that the respondent file and serve all material to be relied upon by her in defence of the application, by 4 p.m. on 3 July 2002. I direct that the respondent be precluded, without leave of the Court, from adducing any further evidence by affidavit after that date. I direct that any affidavits by the applicant in reply, be filed and served by 15 July 2002. I further direct that a copy of this order be included amongst the documents to be served on the applicant.

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Costs of and incidental to this application will be reserved.

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HIS HONOUR: I give you leave for Exhibit 2 to be substituted by a copy document.

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