

## Transcript of Proceedings

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State Reporting Bureau  
Date: 30 January, 2003

SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

DUTNEY J

No S612 of 2003

DAWN PATRICIA BAKER

Applicant

and

MELVYN LLOYD JOHNSON

Respondent

ROCKHAMPTON

..DATE 28/01/2003

JUDGMENT

**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: This is an application for criminal compensation in relation to injuries sustained by the applicant when she was assaulted by Melvin Lloyd Johnson in August 1999. The physical injuries suffered by the applicant consisted of a two centimetre tender contusion over the left supraorbital area and a 1.5 centimetre superficial wound over the right wrist which was cleaned and steri strips applied.

In addition, the applicant deposes to twisting her knee when she tried to prevent the respondent from entering her room. This happened as she was pushing her knee against the door. She had a pre-existing knee condition but deposes to swelling in her knee which took about six weeks to resolve.

The other injury is of a psychiatric nature. The applicant has been assessed by Desley Fraser, psychologist, who has furnished a report in which she states:

"At the time of assessment it was noted that Ms Baker had experienced significant and frequent abuse through her childhood and also subsequently as an adult in experiencing two abusive relationships.

Further, it was noted that she had significant disruptive behavioural difficulties as a child going through her education therefore it was considered that Ms Baker's alcoholic behaviours, anxiety and depression were pre-existing. However it was considered the addition of the nightmares, flashbacks and increased hypervigilance from which was separate from and in addition to the earlier life experience responses, at this time it was considered that this portion of this lady's presentation of mild severity could be directly attributed to the assaults in October 2000.

Further, it was considered that this lady would benefit a period of rehabilitation and counselling to assist her in future goal setting and resolution of earlier life experiences."

The degree to which the exacerbation of the psychiatric conditions from which the applicant suffered was exacerbated by the incident involving the respondent is of the order of five per cent.

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There seems to me to be no basis, having regard to the circumstances in which the offence was committed, to hold that the applicant contributed in any way to the injuries she suffered. In consequence I propose to award the following sums by way of compensation:

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- Under Item 1, for bruising/laceration(minor/moderate) I propose to allow two per cent or the sum of \$1500;
- In relation to Item 19, fracture/loss of use of leg/ankle(minor/moderate) I propose to allow six per cent or \$4500 for the exacerbation of her pre-existing knee injury; and for
- Item 31, mental or nervous shock(minor) I propose to allow four per cent or \$3000 having regard to the factors outlined in the psychologist's report;
- The total awarded is therefore 12 per cent of the scheme maximum or the sum of \$9000.

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