

SUPREME COURT OF QUEENSLAND

CITATION: *R v Kurtzman* [2019] QSC 9

PARTIES: **R**
v
KURTZMAN, David John
(applicant)

FILE NO/S: Indictment No 401 of 2017

DIVISION: Trial Division

PROCEEDING: Application pursuant to s 590AA of the *Criminal Code* 1899 (Qld)

ORIGINATING COURT: Supreme Court at Brisbane

DELIVERED ON: 29 January 2019

DELIVERED AT: Brisbane

HEARING DATE: 9 October 2018; supplementary written submissions on behalf of the respondent received on 26 November 2018; supplementary written submissions on behalf of the applicant received on 6 December 2018

JUDGE: Burns J

RULING: **The conversations particularised in paragraph 19 of the Outline of Submissions on behalf of the Applicant dated 13 July 2018 are not admissible in evidence at the trial of indictment No 401 of 2017**

CATCHWORDS: CRIMINAL LAW – EVIDENCE – HEARSAY – ADMISSIBILITY – where it is alleged the accused supplied dangerous drugs to two men – where the accused regularly met and communicated with one or other of the men – where the Crown seeks to adduce evidence at the accused’s trial of conversations between the two men as well as conversations between one of the men and various third parties – whether the evidence is admissible under the co-conspirators’ rule

Criminal Code 1899 (Qld), s 7(1)(d), s 590AA
Drugs Misuse Act 1986 (Qld), s 6

Ahern v R (1998) 165 CLR 87, followed
Maroney v The Queen (2003) 216 CLR 31, cited
R v Kelly [2005] QCA 103, cited
R v Markovski [2009] QCA 299, cited
R v Tripodi (1961) 104 CLR 1, followed

COUNSEL: J R Jones with N D Boyd for the applicant
B M White for the respondent

SOLICITORS: Potts Lawyers for the applicant
Office of the Director of Public Prosecutions for the
respondent

- [1] The applicant, David John Kurtzman, is awaiting trial on an indictment alleging one count of trafficking in methylamphetamine, one count of supplying cannabis, two counts of supplying methylamphetamine, one count of possessing cannabis and one count of possessing drug paraphernalia that is said to have been used in connection with the commission of the crime of trafficking in a dangerous drug. By the trafficking count, it is alleged that he carried on business as such at Burleigh Heads between 2 May 2014 and 30 May 2015.
- [2] Under cover of this application, a ruling is sought pursuant to s 590AA of the *Criminal Code* 1899 (Qld) to the effect that certain evidence which the Crown proposes to lead at the trial is inadmissible. The Crown contends that the evidence is properly receivable under the co-conspirators' rule: *R v Tripodi* (1961) 104 CLR 1, 7-8; *Ahern v R* (1998) 165 CLR 87, 100.
- [3] The application was heard, and is determined, on an agreed bundle of material.¹ Apart from written submissions, it consists of two evidence summaries along with various surveillance logs and transcripts of intercepted telephone conversations. Because the parties have resolved a number of issues since the application was heard, only one of the evidence summaries has continuing relevance. It is devoted to the question whether the summarised evidence constitutes "reasonable evidence" of the existence of a common unlawful purpose between the applicant and two other men – Frank Harold Voss and Garry Charles Burt Owen.² The parties agree that the summary contains an accurate statement of the relevant evidence on that question which is relied on by the Crown, as well as the sources of that evidence. Because of its importance to the outcome of this application, the summary has been reproduced in full in the Schedule to these reasons.³
- [4] By way of background, a covert police operation was commenced in December 2013 targeting members of the Mackay chapter of the Rebels Outlaw Motorcycle Gang, including Voss and Owen. The operation included the use of telephone intercepts, static surveillance and law enforcement participants.
- [5] On 27 February 2015, Owen was arrested by police at the Sunshine Coast after he was found in possession of 32 grams of methylamphetamine. On 30 May 2015, a search was conducted at Voss' residence where 62 grams of methylamphetamine were located. Both men were charged and convicted in 2016 of offences against the *Drugs Misuse Act* 1986 (Qld) including trafficking in dangerous drugs.

¹ Exhibit 1.

² Exhibit 2.

³ Not all of the source evidence is before the court. For example, none of the witness statements, certificates of analysis or CCTV footage referred to in the summary was adduced in evidence on the hearing of the application.

- [6] The Crown case against the applicant is that, between 19 May 2014 and 30 May 2015, he supplied dangerous drugs to Voss and Owen on 13 separate occasions. Over that period, the applicant resided on the Gold Coast and conducted a lawful business in the sale of motorcycle handle bars and other spare parts from premises situated at Burleigh Heads and known as “Burleigh Bars”. It is alleged by the Crown that Voss and/or Owen travelled from Mackay to obtain methylamphetamine from the applicant on the occasions mentioned and then returned to Mackay where the pair sold it.
- [7] It is not however alleged that the applicant was involved in, or had knowledge of, Voss and Owen’s unlawful trafficking activities in the Mackay region. Rather, the common unlawful enterprise which the Crown maintains the applicant was engaged in with Voss and Owen is limited to the supply of methylamphetamine (and other dangerous drugs). If that is accepted, the Crown submits, the acts and words of each in furtherance of that enterprise, limited as just stated, will be admissible in the case against the applicant. That is because each will have been a party to a criminal conspiracy to commit the crime of supplying a dangerous drug and, with that, authority to each to act or speak in furtherance of the common purpose on behalf of the others will be implied.⁴ In this context, it is important to appreciate that both the supplier of a dangerous drug and the person supplied will commit the offence of supply pursuant to s 6 of the *Drugs Misuse Act* 1986 (Qld); the former as the principal offender and the latter as the party who counselled or procured the offence within the meaning of s 7(1)(d) of the *Criminal Code* 1899 (Qld).⁵
- [8] The particular evidence which the Crown seeks to adduce at the trial consists of various conversations between Voss and Owen as well as conversations that Voss had with third parties.⁶ Despite the feature that the applicant was not a party to any of these conversations, the evidence will be admissible under the co-conspirators’ rule if the Crown establishes that there was a common unlawful enterprise of the type alleged, that the words were uttered by Voss or Owen in furtherance of that enterprise and that there is, apart from such words, reasonable evidence that the applicant was also a participant (with Voss and Owen) in the enterprise.⁷
- [9] For the applicant, it was originally argued that the co-conspirators’ rule could have no application because, it was submitted, the Crown had “not identified a common unlawful purpose”.⁸ In the alternative, it was argued that the Crown had failed to establish, by reasonable evidence, the existence of a common unlawful purpose of the type alleged and, further, failed to identify how the evidence in question furthered that purpose.⁹ However, since the application was heard, the applicant abandoned each of these arguments save for the first alternative, that is to say, that there does not exist reasonable evidence to establish the existence of a common unlawful purpose between the applicant,

⁴ See *R v Tripodi* (1961) 104 CLR 1, 7.

⁵ See *Maroney v The Queen* (2003) 216 CLR 31, 35-36. For the converse of this factual scenario, see *R v Kelly* [2005] QCA 103, [6].

⁶ The third parties are named in the application – Dean Daniel, Elizabeth McGrath, Candy Mende and Julie Waterton – although it should be recorded that the Crown no longer seek to rely on the evidence of Ms McGrath, although whether that concession extends to conversations with Ms McGrath is not clear. See also paragraph 19 of the Outline of Submissions on behalf of the applicant where the challenged evidence is specified in more detail.

⁷ See *R v Tripodi* (1961) 104 CLR 1, 7-8; *Ahern v R* (1998) 165 CLR 87, 100.

⁸ Outline of Submissions on behalf of the applicant, par 5.

⁹ *Ibid*, par 6.

Voss and Owen for the supply of dangerous drugs.¹⁰

- [10] When determining whether there is or is not reasonable evidence of the common unlawful purpose alleged by the Crown in this case, it is well to remember that the existence of a criminal conspiracy is seldom proved by direct evidence. Rather, such a fact will “in almost all cases be proved as a matter of inference from other facts, that is to say, by circumstantial evidence”.¹¹ As such, the court will usually be concerned to determine whether there is reasonable evidence to support an inference to the effect contended by the Crown,¹² and this case is no different.
- [11] In support of the submission that there is reasonable evidence of a common unlawful purpose between the applicant, Voss and Owen to supply dangerous drugs, the Crown advanced three propositions: *first*, that the applicant regularly met with Voss or Owen on the Gold Coast over a period of a little less than 11 months between June 2014 and May 2015; *second*, that the purpose of those meetings was for the applicant to supply them with methylamphetamine; and, *third*, that it is apparent from the content of various intercepted telephone conversations that the applicant was dealing with Voss and Owen conjointly.
- [12] As to the first of those propositions, there can be no doubt that Voss and Owen travelled to the Gold Coast on a number of occasions over the period in question and, when on the Gold Coast, met with the applicant. The number of those meetings is in dispute – the Crown contends that the applicant met with either Voss or Owen on between nine and eleven occasions¹³ and the applicant submits that the evidence discloses no more than five or six meetings¹⁴ – but it does not seem to me to be necessary to determine the precise number. It is enough to proceed on the basis that there is reasonable circumstantial evidence to infer that the applicant met with Voss or Owen on a significant number of occasions, and perhaps on as many occasions as the Crown contends.
- [13] So, too, may the third proposition be accepted, or at least as far as it goes. If the reference to “Gaz” in paragraph 4 of the Schedule is a reference to Owen, then Voss was speaking to the applicant about Owen and, in particular, the prospect of Owen travelling down from Mackay. Likewise, if the reference to “Frankie” in the conversation extracted in paragraph 17 is a reference to Voss, the applicant was speaking to Owen about Voss travelling down to the Gold Coast and, when there, catching up with him for “a beer”. It is also apparent from the conversation extracted at paragraph 19 that Voss foreshadowed to the applicant that he would be travelling imminently to the Gold Coast and that, based on the surveillance summarised at paragraph 20, it was Owen who attended the applicant’s business premises one week later. But, to be clear, that does not mean (as the Crown has submitted) that Owen replaced Voss at a meeting with the applicant that Voss had arranged. Nevertheless, it cannot be doubted that the three men knew each other, and

¹⁰ Supplementary written submissions on behalf of the applicant received on 6 December 2018, pars 2 and 3.

¹¹ *Ahern v R* (1998) 165 CLR 87, 93.

¹² As to which, see *R v Markovski* [2009] QCA 299, [24].

¹³ On 16 June 2014 (Voss), 10 July 2014 (Voss), 12 August 2014 (Owen), 3 September 2014 (Voss), 29 September 2014 (Voss), 16 October 2014 (Owen), 17 November 2014 (Owen), 8 December 2014 (Owen), 30 December 2014 (Voss), 25 February 2015 (Owen) and 7 May 2015 (Voss).

¹⁴ On 16 June 2014 (Voss), 10 July 2014 (Voss), 16 October 2014 (Owen), 17 November 2014 (Owen), 30 December 2014 (Voss) and (maybe) 25 February 2015 (Owen).

there is enough in what was said to support an inference to the effect that the applicant was dealing with both men to some degree.

- [14] The problem, though, with the Crown's argument becomes manifest when consideration is given to the second of the three propositions. Although it may be accepted, as I have, that there were regular meetings between the applicant on the one hand and either Voss or Owen on the other hand over the period in question and, further, that Voss and Owen travelled to the Gold Coast from Mackay on each occasion, it does not follow from those facts alone that the purpose of those meetings was for the applicant to supply them with methylamphetamine. There must be reasonable evidence capable of supporting an inference to that effect but, for the reasons that follow, I am not persuaded that this is so.
- [15] The Crown submitted that, during a number of intercepted conversations, the applicant spoke about the purpose of the meetings with Voss and Owen in "code to conceal what they were really doing".¹⁵ Particular reliance was placed on the telephone conversation on 11 August 2014, which is extracted at paragraph 6 of the Schedule, when Owen told the applicant that he would "slip down an' have a beer with ya". Reference was then made to the surveillance evidence summarised in paragraph 7 to the effect that Owen was observed entering Burleigh Bars the next day and leaving 11 minutes later. The Crown also relied on two telephone conversations between the applicant and Owen which took place on 17 November 2014 and are extracted at paragraphs 13 and 14. In the first of those conversations, there is again reference to the pair meeting to have a "beer" as well as Owen telling the applicant that he had "more bloody fish and chip" for a person referred to by Owen as "Spanner". There are also references in the conversations between the applicant and Owen on 6 and 29 December 2014, which are extracted at paragraphs 15 and 17, about them meeting to "have a beer" and, in the second of those conversations, statements by Owen to the effect that "Frankie" would be travelling down to the Gold Coast in the near future, a person whom the Crown contends is Voss. The Crown contended that what was being relevantly discussed was "not actually that they would have a beer together" or that Owen would deliver "fish and chips" to the person known as "Spanner", but that the men were using code for the supply of dangerous drugs. The point was made that it is inherently implausible that Owen and Voss would travel such a vast distance to have a beer with the applicant or, indeed, to supply "fish and chips" to another person. The relatively short periods of time when Voss or Owen were observed to remain at the applicant's business premises during their visits (or at least the visits that were surveilled) reinforced this conclusion, in the Crown's submission. Reliance was also placed on the surveillance evidence summarised in paragraph 8 of the Schedule to the effect that Voss flew from Mackay to the Gold Coast on 3 September 2014 in the company of Ms McGrath, hired a rental car and then drove directly to the applicant's business premises as supporting the conclusion that the "primary purpose" of their "trip was to meet the applicant" along with the feature that both Owen and Voss were (separately) found in possession of methylamphetamine on 27 February 2015 and 30 May 2015 respectively.
- [16] Although it is possible that the references in the telephone conversations to meeting up for a "beer" represent the use of code to conceal the true purpose of the meetings, it is also possible that they were no more than statements in the vernacular by men who were

¹⁵ Respondent's supplementary submissions, par 4.1.

hopeful of “catching up”¹⁶ in a social sense at some time in the future. Nonetheless, the statement about the supply to “Spanner” of “fish and chip” is more difficult to accept as an innocent reference. However, the difficulty for the Crown is that, even if the men were by these references attempting to conceal some sinister purpose, it would be an exercise in pure speculation to conclude that the *only* reason they were speaking in code was to conceal their planned and/or actual supply of dangerous drugs. To constitute reasonable evidence, the evidence must be capable of supporting an inference that there was a common unlawful purpose *of the type alleged*. Without more, the fact the men were speaking in code does not meet this test.

- [17] The other features relied on by the Crown – the brevity of the surveilled meetings, the observations on 3 September 2014 and the quantities of methylamphetamine found in the possession of Voss and Owen – do not permit such an inference to be drawn once they are considered in context. The evidence establishes that Voss and Owen engaged in a number of other activities when they were on the Gold Coast, including visiting friends and attending other business premises, so it cannot reliably be stated what the “primary purpose” of their visits to the Gold Coast was. When the “Burleigh Bars” premises were ultimately searched, no dangerous drugs or cash were located and the applicant’s possession of the alleged drug, paraphernalia – scales and clip seal bags – is explicable by reference to the conduct of his lawful business in the sale of motorcycle handle bars and other spare parts. Despite being under covert police scrutiny, on and off, for a period of at least 10 months, there is no evidence of the applicant supplying dangerous drugs to any other person. Owen was found in possession of methylamphetamine on 27 February 2015, two days after meeting with the applicant, but he was not under constant surveillance over that period. Likewise, Voss was found in possession of methylamphetamine several months after his last meeting with the applicant. The position would be quite different, and an inference of supply capable of being drawn, if Voss or Owen were found in possession of dangerous drugs immediately after meeting the applicant, but that is simply not the case.
- [18] It follows that there is not, in my opinion, reasonable evidence of a common unlawful purpose between the applicant, Voss and Owen of the type alleged by the Crown, that is to say, to supply methylamphetamine (or other dangerous drugs).
- [19] The challenged conversations are not admissible in evidence at the trial of the subject indictment and must not be led by the Crown.

¹⁶ Supplementary outline of submissions on behalf of the applicant, par 6.

Schedule

Summary of evidence relied on to prove a common unlawful purpose

| Paragraph | Summary | Source |
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| 1 | Surveillance: 20.05.14 – Surveillance commenced at 8:30am at 96 Bonogin Road, Bonogin. At 8:37am Voss attended Dean Daniel’s address in Bonogin in the white Maxima. At 9:37am Voss drove to the Black Uhlans Clubhouse at 1/16 Ern Harley Drive, Reedy Creek and left the address at 10:11am. They drove to Railway Pde, Mudgeeraba before pulling over. They both got out of the vehicle and were seen moving items inside the boot of the vehicle before travelling north on the M1. Neither the defendant nor his vehicle were identified as being present at any stage during the surveillance. | Surveillance Log 20.05.14 |
| 2 | 16.06.14 at 6:45am Voss greets the defendant and asked when he is going to be at the shop. Defendant replied “in a minute”. Voss said he will see him there. | Line: Nadal Session: 2513 |
| 3 | Surveillance: 16.06.14 - At 7:14am Voss and Chelsea Reardon parked outside Burleigh Bars in a white Nissan Maxima. Voss got out of the car, Reardon remained in the front passenger seat. Voss walked out of sight towards Burleigh Bars and returned some 15 minutes later. The pair leave the address and travel north on the Gateway Motorway, surveillance ceased at Nudgee. | Surveillance Log 16.06.14 |
| 4 | 30.06.14 at 12:42pm The defendant called Voss. Voss and the defendant have a general discussion. Voss indicates he has been in hospital. Voss told the defendant he would be travelling to the Gold Coast in the next week or two. The conversation includes the following exchange: <i>K: No worries, look Gaz is coming down here bloody just, you know?</i> <i>- Overtalk-</i> <i>V: Yeh, yeah (wds¹⁷) well we spoke already yeah</i> <i>K: Hey?</i> <i>V Yeah we spoke already and that about it yeah</i> <i>K: Okay bro, no worries</i> | Line: Nadal Session: 3177 |
| 5 | Surveillance: 10.07.14 – Voss and Chelsea Reardon arrive at Burleigh Bars in a white Nissan Maxima at 7:09am. Prior to Voss arriving, nine other unidentified males arrived at Burleigh Bars. Kurtzman arrived at 7:27am. Reardon remained in the vehicle while Voss went inside the business with Kurtzman. Two further unidentified males arrived at | Surveillance Log 10.07.14 |

¹⁷ The letters, “wds”, are shorthand for “words” that were indistinct to the transcriber.

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| | <p>Burleigh Bars after Kurtzman arrived. Voss and Reardon left at 8:04am. They then stopped at Freedom Fuels Petrol Station at approximately 8:07am and the female got out of the car and went to the toilet. She then returned to the vehicle. They then drove to Precision Powder Coating in Burleigh Heads. They then departed and drove to ClubX in Oxenford where they arrived at 9:15am. They departed Club X at 10:38am and drove north on the Pacific Highway, surveillance ceased at Daisy Hill.</p> | |
| 6 | <p>11.08.14 at 10:53am Owen called the defendant and had the following exchange: <i>O: Hey ah are you floatin' around tomorrow bro or what?</i> <i>K: Yeah I'll be here mate yeah</i> <i>O: Yeah yea no worries I'll ah, I'll slip down an' have a beer with ya</i> <i>K: No worries mate I've gotta go t' me rehab in the mornin' nine o'clock, from nine 'til twelve I'll be at rehab yeah</i> Owen confirmed it will be in the afternoon.</p> | <p>Line: Sampras Session: 1381</p> |
| 7 | <p>Surveillance: 12.08.14 – Surveillance commenced in the vicinity of Burleigh Bars at 11:00 am. At 3.42pm Owen parked in the vicinity of Burleigh Bars and walked towards the Burleigh Bars business. At 3.53pm, Owen returned to his car and drove away. He attended a bottle shop in Burleigh Waters then drove to 11 Bullimah Avenue, Burleigh Heads (Robert Nairne's residence) and drove into the premises out of sight. Neither the defendant nor his vehicle was identified at any stage during the surveillance.</p> | <p>Surveillance Log 12.08.14</p> |
| 7A | <p>During this period Robert Nairne was an associate of the defendant.</p> <p>Telephone intercepts show Nairne and the defendant speaking on 10.10.14, 19.1.15.</p> | <p>Line: Becker Session 118</p> <p>Line: Becker Session 715</p> <p>Line: Molik Session 674</p> |
| 8 | <p>On 3 September 2014 Frank Voss and Elizabeth McGrath flew from Mackay to the Gold Coast airport where they hired a rental car at approximately 3:25pm. The pair drove directly to the Burleigh Bars Business which is owned and operated by the defendant at 4:09pm. At approximately 4:37pm the pair left the address. The pair returned to Mackay airport on 4 September 2014.</p> | <p>Surveillance log from 3.09.14</p> <p>CCTV footage from Mackay and Gold Coast Airports</p> <p>Statement of Puller [152] – [157]</p> <p>Statement of Taylor [63] – [66]</p> |
| 9 | <p>18.09.14 at 3:13am The defendant sent a text message to Owen saying "Going to Taiwan on Sunday night for one week".</p> | <p>Line: Sampras Session: 3516</p> |

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| 10 | <p>Surveillance: 29.09.14 – Voss and McGrath arrive and park in the vicinity of Burleigh Bars at 7:41am. At 8:34am, Voss and McGrath depart from the carpark of Burleigh Bars. The surveillance does not record Voss or McGrath exiting their vehicle or being approached by any persons. There is no record in the surveillance log of the defendant being present while Voss and McGrath were parked near Burleigh Bars. Voss and McGrath then drove to the Playhouse Adult Store in Burleigh Waters, they arrived at 8:38am. They departed the Playhouse Adult Store at 9:22am and drove to Club X in Oxenford. They arrived there at 9:48am. They departed Club X at 10:21am. They then drove north on the Pacific Motorway, surveillance was terminated at the Gateway Motorway exit.</p> | Surveillance Log 29.09.14 |
| 11 | <p>15.10.14 at 12:24pm Owen asked the defendant if he would be around tomorrow. The defendant said he would. Later in the conversation they had the following exchange: <i>K: Yeah, yeah no worries. Alright bro what are you gonna be down are ya?</i> <i>O: I'll be down tomorra night mate yeah or tomorra arvy</i> <i>K: Alright bro</i> <i>O: I'll, I'll whiz in and catch up</i> <i>K: Alright bro good onya</i> <i>O: Alright mate I'll talk to ya soon</i></p> | Line: Becker Session: 187 |
| 12 | <p>16.10.14 at 18:17 Defendant received a phone call from his partner, Karen Myers asking the defendant when he was coming home. He told her he was with Gazza. She asked him to pick up some Red Rooster on the way home for dinner.</p> | Line: Becker Session: 219 |
| 13 | <p>17.11.14 at 2:00pm The defendant and Owen have a telephone conversation where the following exchange occurs: <i>O: Yeah, yeah no worries mate. What, what ah what time are you takin' off home this arve?</i> <i>K: Um oh probably five-ish. What time do you get around here do you reckon?</i> <i>O: Um I'm probably about two hundred out of Brissie I suppose about yeah a coupla hours out of Brissie</i> <i>K: Oh yeah</i> <i>O: Yeah, yep</i> <i>K: All alright well I'll bloody um yeah if I'm not here just give me a ring bro</i> <i>O: Yeah</i> <i>K: Yeah, yeah</i> <i>O: Yeah , yeah now worries too easy mate</i> <i>K: I'll have a fuckin' beer with you on the (wds) alright bro</i> <i>O: Yeah mate yeah for sure. Yeah I gotta um I gotta um call in and see bloody um ah Spanner, is Spanner still there aye?</i> <i>K: Yeah</i> <i>O: Yeah yep. No I've otta bit more bloody fish and chip for</i></p> | Line: Becker Session: 812 |

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| | <p style="text-align: center;"><i>him</i> <i>K: Okay</i> <i>O: So I'll whiz in and catch up with him anyway but</i> <i>K: Yeah okay</i></p> <p>They then say their goodbyes and the phone call ends.</p> | |
| 14 | <p style="text-align: center;">17.11.14 at 17:24pm</p> <p>The defendant and Owen discuss meeting up.</p> <p>The defendant asks "<i>what are you up to mate?</i>" and is told by Owen that "<i>I'll be there in a minute</i>" and the defendant replies eventually "<i>alright, alright see you in a minute.</i>"</p> | Line: Becker Session: 816 |
| 15 | <p style="text-align: center;">6.12.14 at 14:49</p> <p>Owen called the defendant and asked if he will be around in the next couple of days. The defendant says he has a funeral on Thursday. Owen then says, "<i>No worries, I was gonna come down and catch up here and (wds) have a beer.</i>"</p> <p>The conversation continued:</p> <p style="text-align: center;"><i>K: Yeah</i> <i>O: (wds) fuckin' wander back mate yeah</i> <i>K: No no worries bro, alright mate</i> <i>O: No worries all, all good?</i> <i>K: I'll see ya then</i> <i>O: Alright mate I'll talk to ya soon aye?</i> <i>K: Alright bro see ya mate</i> <i>O: Alright see ya buddy -Laughs- see ya</i></p> | Line: Becker Session: 1218 |
| 16 | Surveillance: 8.12.14 - Voss' vehicle was observed parked at Robert Nairne's address of 11 Bullimah, Burleigh Heads at approximately 7.27pm. | Statement of Taylor [71] |
| 17 | <p style="text-align: center;">29.12.14 at 14:44</p> <p>Owen called the defendant and exchanged pleasantries. They then have the following exchange:</p> <p style="text-align: center;"><i>K: What are ya down here are ya?</i> <i>O: Nah mate nah Frankie's Frankie's gonna come down and catch up with (wdw) and</i> <i>K: Oh yeah oh yeah</i> <i>O: Yeah so yeah I just thought I'd give ya give ya a ring mate and see if you were about</i> <i>K: (wds)</i> <i>O: Yeah too easy brother I'll ah</i> <i>K: (wds) yeah yeah just tell fuckin them (wds) to give me a ring and bloody ah we'll have a beer mate I owe him one fuckin'</i> <i>O: (laughs)</i> <i>K: Put them shingles up</i> <i>O: Oh yep yep yep</i></p> <p>Owen and the defendant then continue in general discussion.</p> | Line: Becker Session: 183 |
| 18 | <p style="text-align: center;">30.12.14 at 7:53am</p> <p>The defendant received a call from Marcel Junghanns telling him "Frank" (Voss) is at Burleigh Bars to see him. The defendant said he will be back in 10 minutes but to make him</p> | Line: Becker Session: 196 |

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| | a cup of tea. | |
| 19 | <p>18.02.15 at 12:49pm</p> <p>Voss calls defendant and they have the following exchange:</p> <p><i>V: Fuckin' there's (wds) gonna fuckin' sleep prob'ly today and tomorrow (wds) stupid cyclone</i></p> <p><i>K: Oh is there a cyclone up there?</i></p> <p><i>V: (wds) yeah it's gonna it's gonna (wds) come across Bundaberg or something</i></p> <p><i>K: Oh yeah</i></p> <p><i>V: Rocky or Bundaberg so I'll just have to wait 'til Sunday or Monday</i></p> <p><i>K: Yeah nah no worries bro</i></p> <p><i>V: Is that alright?</i></p> <p><i>K: Yeah that's fine mate</i></p> <p><i>V: And then should I just go straight to Gator's?</i></p> <p><i>K: Yeah</i></p> <p><i>V: Alright</i></p> <p><i>K Alright bro</i></p> <p><i>V: (wds) I tried to ring him but he's (wds) I got the wrong number</i></p> <p><i>K: Okay bro</i></p> <p><i>V: If you can let him know thanks mate</i></p> <p><i>K: see ya bro</i></p> <p>saying he can't leave due to the cyclone but will come down either Sunday or Monday. Defendant says that is fine. Voss asked if he should go straight to Gator's. The defendant agreed.</p> | <p>Line: Molik Session: 1133</p> |
| 20 | <p>Surveillance on 25.02.15 - Kurtzman's car was at the business at 5:10pm. Owen attended Burleigh Bars with his daughter in his vehicle at 5:27pm. He leaves the address at 5:44pm. He parked outside Robert Nairne's address of 11 Bullimah Avenue, Burleigh Heads at 6:09pm.</p> | <p>Statement of Taylor [72] – [75]</p> <p>Statement of Shilton [9] – [13]</p> |
| 21 | <p>Tactical Intercept: 27.02.15: Owen seen leaving Nairne's address at 4:58am. Owen was intercepted by Sunshine Coast Police and found in possession of 28 grams of methylamphetamine (27.1% purity/7.683 grams) at 7:08am.</p> | <p>Statement of Williams [89]-[91]</p> <p>Statement of Puller [177]</p> <p>Statement of Henwood</p> <p>Certificate of Analysis dated 16.3.15</p> |
| 22 | <p>Voss and McGrath arrive in the Nissan Maxima at Robert Nairne's address of 11 Bullimah Avenue, Burleigh Heads.</p> | <p>Surveillance Log 12.04.15</p> |
| 23 | <p>Tactical Intercept: 7.05.15: Voss and McGrath intercepted south of Tiaro by police. They continued to drive South on the Bruce Highway after.</p> | <p>Statement of Straker</p> |

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| 24 | [Deleted] | |
| 25 | 30.05.2015 - Search warrant executed at Voss' residence locating 61.5 grams gross of methylamphetamine (22.6% pure, 13.933 grams). | Statement of Williams [107]-[108] Statement of Puller [193] – [204] Certificate of Analysis dated 1.7.15 |
| 26 | Police executed a search warrant the defendant's business 'Burleigh Bars' at Unit 2, 16 Ern Harley Drive, Burleigh Heads. During the search, police located the following items: - A set of black electronic scales; - A quantity of clipseal bags; - A digital recorder for a closed circuit security television system. | Statement of Taylor [105] – [110] |
| 27 | [Deleted] | |