



Transcript of Proceedings

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State Reporting Bureau
Date: 31 March, 2006

SUPREME COURT OF QUEENSLAND

APPELLATE JURISDICTION

JONES J

Appeal No 584 of 2004

CRISTINA LOURDES ARTILLAGA

Appellant

and

ADULT GUARDIAN

Respondent

CAIRNS

..DATE 16/03/2006

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: When this matter was called on for hearing this morning Mrs Artillaga failed to appear. This failure is consistent with difficulties which have been experienced in attempting to fix a suitable date for the disposition of the application.

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The matter was first mentioned on the return date of the application on the 31st of January 2005, and on that day her then solicitors sought leave to withdraw, and that request was granted. The matter was then adjourned to the 14th of March 2005, and on that date further adjourned to the 14th of April 2005 because the applicant had some difficulty with legal representation.

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On the 14th of April 2005 the application was adjourned to a date to be fixed so that the terms of a directions order could be discussed between legal representatives, and if possible, agreed upon.

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The matter was next mentioned on the 2nd of August 2005 when the applicant's then solicitors also sought leave to withdraw, and that request was granted. The orders for directions were, however, made on the 27th of April 2005.

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On the 3rd of October 2005, the respondent sought an order seeking compliance with the earlier order of the Court. The matter was listed for hearing on the 7th of November 2005 when the question of compliance with the order was further adjourned to a date to be fixed.

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JUDGMENT

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The application was again listed on the 3rd of February 2006. A date of hearing was set, that being today's date. Mrs Artillaga was present at that time and was represented by solicitors but who at the same time foreshadowed that they intended to seek leave to withdraw. The application was further adjourned to the 17th of February 2006, and on that date the solicitors on the record for the applicant were duly granted leave to withdraw. There was no request at that time for any variation to the date of hearing which, as I have indicated, had been allocated on the previous appearance on the 3rd of February 2006. I am not able, by quick reference to the Court file, to determine whether there was any further confirmation to Mrs Artillaga that today was set as a date of hearing.

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The course that I propose, therefore, is to strike out the application but to delay the effect of my order for 21 days to allow Mrs Artillaga to appear should she wish to be heard, and to show cause why effect should not be given to that order. I will require her appearance to show cause if she is minded to do so within 14 days of today's date.

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HIS HONOUR: So my orders will be that the application be struck out. I direct that the effect of that order be delayed for a period of 21 days from today's date to allow Mrs

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Artillaga to show cause within the next 14 days as to why the
effect should not be given to that order.

Having regard to section 165 of the Guardianship and
Administration Act, I propose not to make any order that Mrs
Artillaga pay the costs of the application.

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JUDGMENT