

**SUPREME COURT OF QUEENSLAND**

**CRIMINAL JURISDICTION**

**ATKINSON J**

**Indictment No 139 of 2016**

**THE QUEEN**

**v.**

**OMAR SUCCARIEH**

**BRISBANE**

**2.16 PM, TUESDAY, 26 JULY 2016**

**RULING**

HER HONOUR: There has been an application to exclude certain parts of a telephone call made on the defendant's telephone between the defendant and another man, Adrian Vaevae. Part of that telephone call was between an unidentified male and Mr Vaevae after that person was put on Mr Succarieh's end of his phone.

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The evidence is relevant to counts 1 and 3 on the indictment, particularly count 3, that alleges that, on or about the 28<sup>th</sup> day of February 2014, Mr Succarieh did an act preparatory to the commission of an offence against section 6 of the Crimes (Foreign Incursions and Recruitment) Act 1978 and causing money to be provided to G in preparation for G to enter the foreign state of Syria and with intent that G would engage in a hostile activity therein.

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Accordingly, evidence as to Succarieh gaining or attempting to gain that money to be provided to G is relevant to the case of the commission of that offence. The crime is said to be one under section 7(1)(a) of the Crimes (Foreign Incursions and Recruitment) Act 1978 of the Commonwealth. The allegation in the indictment is causing the moneys to be provided to G. Accordingly, the actions of the defendant in obtaining that money are relevant to the commission of that offence.

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The telephone call a part of which is objected to falls within a sequence of events whereby, in brief, G gave cash money to Mr Vaevae, who was a school friend of his, to put into Mr Vaevae's account, giving an excuse as to why G wanted that money in Mr Vaevae's account. After Mr Vaevae received that money into that account, he took steps to withdraw moneys on two occasions and to spend at least some of it. There were various conversations between G and Mr Vaevae, but the moneys were not returned to G.

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What followed was a very important conversation between the defendant, Mr Succarieh's and Mr Vaevae, where Mr Succarieh called Mr Vaevae and, in very aggressive terms, demanded what he called his money back and made some threats against Mr Vaevae in order to obtain that money. When those threats were not successful, Mr Succarieh appears to have put another person onto his phone to make even more serious threats to Mr Vaevae in order to obtain that money. That telephone call appears to have been successful and it led to Mr Vaevae speaking to his mother and Mr Vaevae's mother then giving the amount of money that had been given to her son by G to, amongst others, Mr Succarieh, who turned up to her house to obtain it.

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It can be seen, from that description, that it was not just the assertion by Mr Succarieh that it was his money and that he wanted it back that is relevant to the commission of the physical act of this offence, but also the threats that he, and then he caused another, to make to have that money given to him and his associates. Accordingly, the whole of the content of the telephone call is admissible to prove the physical element of the offence and any prejudicial nature that might be seen from it – and, certainly, it is very aggressive and abusive, will have to be dealt with by way of directions to the jury. The fact that it is prejudicial has to be weighed against the

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fact that it is very probative and its probative nature, in my view, outweighs its prejudicial value and I will not exclude that evidence.

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