SUPREME COURT OF QUEENSLAND

CITATION:	*Karamaroudis v Queensland Police Service & Ors* [2023] QCA 217
PARTIES:	**TASO KARAMAROUDIS** (appellant) **v** **QUEENSLAND POLICE SERVICE** (first respondent) **MAGISTRATE TINA PREVITERA** (second respondent) **MAGISTRATE SUZETTE COATES** (third respondent) **CHIEF MAGISTRATE JANELLE BRASSINGTON** (fourth respondent)
FILE NO/S:	Appeal No 5783 of 2023 SC No 13401 of 2022
DIVISION:	Court of Appeal
PROCEEDING:	General Civil Appeal
ORIGINATING COURT:	Supreme Court at Brisbane – [2023] QSC 72 (Wilson J)
DELIVERED ON:	7 November 2023
DELIVERED AT:	Brisbane
HEARING DATE:	1 September 2023 and 24 October 2023
JUDGES:	Mullins P and Morrison JA and North J
ORDERS:	**1. Application to adduce further evidence dismissed.** **2. Appeal dismissed.** **3. Application for an interlocutory injunction dismissed.** **4. The appellant pay the first respondent's costs of the applications and the appeal.**
CATCHWORDS:	PROCEDURE – MISCELLANEOUS PROCEDURAL MATTERS – REFERENCE AND REMOVAL OF PROCEEDINGS AND APPEAL AND REVIEW WITHIN COURT – GENERALLY – where the appellant made an application to the Supreme Court to re-hear a partially heard committal from the Magistrates Court – where the Magistrates Court does not have the power to permanently stay a partially heard committal under the *Justices Act 1886* (Qld) COURTS AND JUDGES – COURTS – GENERAL PRINCIPLES – where the appellant sought relief that the

respondents be referred to the Director of Public Prosecutions or the Legal Services Commission – where there is no cause of action available at common law to the appellant to seek relief in the form of an order referring material to prosecuting or investigation authorities – where a "public official" is bound by the *Crime and Corruption Act 2001* (Qld) – where the appellant sought leave to amend the originating application to join a further nine respondents to his claim – where the application to amend the originating application was dismissed

COURTS AND JUDGES – JUDGES – DISQUALIFICATION FOR INTEREST OR BIAS – PARTICULAR GROUNDS – CONDUCT, INCLUDING PUBLISHED STATEMENTS – where the appellant alleged apprehended and actual bias due to the magistrate's conduct during a hearing – where the appellant contends that the primary judge demonstrated actual and apprehended bias and concealed corrupt practices of the Magistrates Court – whether the appellant was denied procedural fairness because he could not ventilate his whole argument at administrative mentions – where the appellant misunderstands the scope of procedural fairness – where the appellant contends that the Magistrates Court cannot bring a impartial mind to hearing his matter

Australian Broadcasting Corporation v O'Neill (2006) 227 CLR 57; [2006] HCA 46, cited
British American Tobacco Australia Services Ltd v Laurie (2011) 242 CLR 283; [2011] HCA 2, cited
Chapel of Angels Pty Ltd v Hennessey Building Pty Ltd [2022] QCA 232, cited
Charisteas v Charisteas (2021) 273 CLR 289; [2021] HCA 29, cited
Dupois v Queensland Police & Anor [2022] QSC 241, cited
Ebner v Official Trustee in Bankruptcy (2000) 205 CLR 337; [2000] HCA 63, cited
Hassan v Sydney Local Health District [2021] NSWCA 97, cited
Hassan v Sydney Local Health District (No 5) [2021] NSWCA 197, cited
Johnson v Johnson (2000) 201 CLR 488; [2000] HCA 48, cited
Karamaroudis v Queensland Police Service & Ors [2023] QSC 72, cited
Karamaroudis v Queensland Police Service & Ors [2023] QSC 101, cited
Kioa v West (1985) 159 CLR 550; [1985] HCA 81, cited
Livesey v New South Wales Bar Association (1983) 151 CLR 288; [1983] HCA 17, cited
McEwan v The Commissioner of Taxation of the Australian Taxation Office and Ors [2022] QSC 81, cited

Michael Wilson & Partners Ltd v Nicholls (2011) 244 CLR 427; [2011] HCA 48, cited
Minister for Immigration and Multicultural Affairs v Jia Legeng (2001) 205 CLR 507; [2001] HCA 17, cited
Oshlack v Richmond River Council (1998) 193 CLR 72; [1998] HCA 11, cited
Palmer v Magistrates Court of Queensland (2020) 3 QR 546; [2020] QCA 47, cited
Parbery & Ors v QNI Metals Pty Ltd & Ors [2018] QSC 213, cited
Reid v Commercial Club (Albury) Ltd [2014] NSWCA 98, cited

COUNSEL: The appellant appeared on his own behalf
P J Wilson for the first respondent (1 September 2023)
E J Cooper for the first respondent (24 October 2023)
P H Nevard for the second, third and fourth respondents (1 September 2023)
B A Cramer (*sol*) for the second, third and fourth respondents (24 October 2023)

SOLICITORS: The appellant appeared on his own behalf
QPS Legal for the first respondent
G R Cooper, Crown Solicitor for the second, third and fourth respondents

[1] **THE COURT:** The appellant has been charged with the offence of stalking, contrary to s 359B of the *Criminal Code* (Qld). He has elected to have the matter dealt with by way of committal, rather than a summary procedure. The committal in the Magistrates Court has not been finalised, as there are still steps to be completed before any hearing can be set. Notably, the appellant applied to cross-examine witnesses at the committal. That application is part-heard and set to resume on 21 November 2023.

[2] It is the part-heard hearing of the appellant's application to cross-examine that generated this round of the litigation.

[3] On 1 November 2022, the appellant filed an originating application in the Supreme Court seeking the following relief:

(a) the Supreme Court or District Court re-hear the partially heard committal proceeding currently on foot in the Brisbane Magistrates Court and make a determination or decision on the application to cross-examine witnesses in accordance with section 83A(5AA) of the *Justices Act 1886* (Qld); and

(b) in the event that the Court refuses to rehear the matter in the Supreme or District Courts, that Magistrate Previtera be disqualified from further presiding over or hearing the committal.

[4] Further, as part of his submissions to the learned primary judge the appellant applied to join a variety of new parties to the originating application, to include nine other respondents, including legal representatives for the respondents, police

officers, and police prosecutors. The learned primary judge identified the appellant's suggested basis for the joinder:[1]

(a) any illegalities committed by members of the Queensland Police Service were an issue in the application;

(b) the amendments constituted issues that are causal and at the heart of the relief originally sought;

(c) serving members of the QPS have committed illegalities and have not faced justice for doings so; and

(d) counsel for the QPS has "stained the face of the court with his reckless attempt at perverting the course of justice in his written submissions".

[5] The appellant signified the relief he proposed to seek against the proposed new parties, namely that the Supreme Court refer documents to the Director of Public Prosecutions or the Legal Services Commissioner in relation to these proposed respondents.

[6] The application was heard over two days. The learned primary judge dismissed it and ordered the appellant to pay costs.[2] The appellant challenges those orders contending that the learned primary judge was in error in many respects.

[7] Further, before this Court the appellant filed an application to adduce further evidence. The Court reserved all questions relating to that application.

[8] The appeal was heard on 1 September 2023, the Court reserving its decision.

[9] While the decision was reserved the appellant took a further step. On 26 September 2023 he filed an application seeking interlocutory relief by way of two orders:

(a) the respondents be restrained from further proceeding in the committal until a date at least four weeks after proceedings associated with Supreme Court matter BS 13401/22 are finalised; and

(b) the hearing listed for 21 November 2023 in the Brisbane Magistrates Court be delisted.

[10] This Court heard the application on 24 October 2023.

[11] These reasons deal with the appeal, the application to adduce further evidence and the application for interlocutory relief.[3] As will appear:

(a) the contentions advanced by the appellant before this Court on the appeal were substantially the same as those advanced at first instance, except to assert (in a variety of ways) at each instance that the learned primary judge was wrong to reject those contentions;

(b) the material sought to be adduced as further evidence before this Court was substantially the same as that relied upon at first instance;

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1 Reasons below [25].

2 *Karamaroudis v Queensland Police Service & Ors* [2023] QSC 72; *Karamaroudis v Queensland Police Service & Ors* [2023] QSC 101.

3 For ease of convenience we shall refer to "the appellant" even when he is an applicant.

(c) the application for interlocutory relief and delisting relies on the issue of whether there is a serious question to be tried,[4] on the same material as advanced below.

[12] For the reasons which follow: (i) the application to adduce further evidence is refused; (ii) the appeal is dismissed; (iii) the application for an injunction and delisting of the hearing set for 21 November 2023 is dismissed; and (iv) in each case, the appellant must pay the costs of the first respondent.

The appellant's abuse of the courts and police

[13] There is another matter we should mention at the outset. These reasons are longer than they otherwise might have been because the Court has had to deal with the appellant's repeated assertions that the Magistrates who have handled his hearings, and the learned primary judge, are guilty of bias (both actual and apprehended), unfair conduct by the denial of procedural fairness, fraud, and corrupt conduct, by concealing corrupt practices of the police officers involved in the appellant's arrest and the conduct of the prosecution of the committal, and, in the case of the learned primary judge, concealing corrupt practices by the Magistrates.

[14] As will appear, there is simply no evidential foundation for those wild and outrageous assertions. They emanate from the appellant's dogged but wholly erroneous view of the various hearings in the Magistrate's Court, perceiving every adverse ruling or denial of his desire to loudly denounce what he sees as corrupt or unfair conduct, as being grounded in corruption of some kind or other. Even in the course of submissions before this Court the appellant demonstrated an inability to comes to grips with the undeniable defects in his analysis of events.

[15] Leaving aside for the moment the appellant's general complaint that he was wrongly charged, a matter that will be tested in the committal and trial (if any), the foundation of his complaints against the police stem from the discrepancy between what was sworn by one officer in an affidavit for a bail hearing (as to his agitated demeanour when arrested and in the watch house), and what is revealed by the relevant CCTV footage.

[16] The prosecutor accepts that there is a discrepancy, and the CCTV footage can be said to not show the degree of agitation referred to in the affidavit. But that does not mean the particular officer was corrupt, as the appellant would have it. The difference may lie in one person's perception as to events, that not being borne out by other facts. It is a common occurrence in court cases of all kinds that there is a variance in recollection. It does not equate to corruption. Nor does it mean that every officer who has handled the case since that time is corrupt.

[17] By doggedly adhering to a view of events which is simply wrong, and using that as a platform for making unjustified and outrageous allegations of judicial corruption, the appellant abuses his right to address the courts.

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[4] We use the phrase "serious question to be tried" merely as a convenient shorthand for the test on an interlocutory injunction, namely that in *Australian Broadcasting Corporation v O'Neill* (2006) 227 CLR 57 at [65]-[72]; [2006] HCA 46: whether the plaintiff has made out "a prima facie case, in the sense that if the evidence remains as it is there is a probability that at the trial of the action the plaintiff will be held entitled to relief".

The proceedings below

[18] The relevant chronology of events was summarised by the learned primary judge in a way not criticised by the appellant:[5]

> "[5] On 25 March 2021 the applicant was charged with unlawfully stalking his neighbour from between 1 February 2018 and 25 March 2021. On this date, a bail affidavit was sworn by the arresting officer opposing bail.
>
> [6] At the first mention on 26 March 2021, the applicant was denied bail and it was not until 12 April 2021 that he was granted bail.
>
> [7] This matter then had a number of mentions and between November 2021 and February 2022, various legal representatives of the applicant were given leave to withdraw.
>
> [8] On 7 March 2022, directions were made by Magistrate Coates for the filing of applications and the matter was listed for 11 April 2022.
>
> [9] On 17 March 2022, there was a directions hearing before Acting Magistrate Paul Byrne. The applicant made an application for disclosure and an order was made requiring police disclosure within 21 days in relation to a copy of a list of dates and reasons for police call-out and attendance upon the applicant during the period of March 2011 and March 2021. The applicant's other applications were dismissed. It is difficult to ascertain exactly what occurred at this hearing as no transcript has been provided.
>
> [10] The applicant then made an application to re-open the directions hearing of 17 March 2022. On 21 March 2022 this application was refused in chambers with the matter to remain as listed for 31 March 2022.
>
> [11] On 31 March 2022, the applicant made two applications before Magistrate Previtera:
>
> (a) an application to re-open the directions hearing of 17 March 2022; and
>
> (b) an application for a permanent stay of the proceedings.
>
> [12] Both applications were refused. Directions were made for the serving of a notice [Pursuant to section 110B(3) of the *Justices Act 1886* (Qld)] by 14 April 2022 requiring police to respond by 28 April 2022. An application for leave to cross-examine was listed for half a day on 14 June 2022.
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> [13] On 4 April 2022, the applicant filed an application to re-open a hearing. The application did not particularise which hearing he wished to re-open. The then Deputy Chief Magistrate

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5 Reasons below [5]-[22].

Brassington proceeded on the basis it was the 31 March 2022 hearing and refused the application on 5 April 2022.

[14] Pursuant to section 110B of the *Justices Act* the applicant sent correspondence (dated 14 April 2022 and 28 June 2022) to Brisbane Police Prosecutions stating that he wished to cross-examine:

(a) the arresting officer;

(b) the complainant; and

(c) a witness who gave a statement for the prosecution.

[15] The prosecution responded on 20 April 2022 and on 4 July 2022. Whilst the prosecution did consent to some topics, they did not consent to a range of topics of cross-examination as set out by the applicant.

[16] On 14 June 2022, O'Sullivan Lawyers was given a Legal Aid grant and appeared on the record. Directions were made for the parties to file and serve material.

[17] On 7 July 2022, O'Sullivan Lawyers was no longer acting for the applicant.

[18] On 25 August 2022, the applicant represented himself before Magistrate Previtera in relation to an:

(a) application to recuse Magistrate Previtera; and

(b) application for leave to cross-examine three witnesses at a committal hearing.

[19] Magistrate Previtera refused the application to recuse herself.

[20] Later in the afternoon, the applicant had difficulty with his breathing and applied for an adjournment of the hearing. Her Honour stood the matter down for five minutes, during which, an ambulance was called. The applicant was unable to return to court to finalise the leave to cross-examine hearing.

[21] The magistrate has not made a decision in relation to the three witnesses required for cross-examination by the applicant. This matter remains part heard.

[22] On 1 November the applicant filed this application in the Supreme Court."

Refusal to admit evidence and joinder of new respondents

[19] Part of the relief sought by the appellant at first instance was an order joining a number of nominated persons, and seeking orders that they and existing parties be referred to the Director of Public Prosecutions or the Legal Services Commission with a view to those authorities prosecuting or otherwise taking action against them. The parties included the Queensland Police Service and three named Magistrates.

There were nine nominated, namely legal representatives for the respondents, police officers and police prosecutors.

[20] That relief was refused by the learned primary judge.

[21] The appellant's contention on this aspect of the appeal centred on the learned primary judge's ruling that his application was bound to fail. In that regard her Honour said:[6]

> "[31] In the New South Wales Court of Appeal decision of *Hassan v Sydney Local Health District* [2021] NSWCA 97 ***(Hassan v Sydney Local Health District)***, Brereton JA said:
>
> > " ... While as an incident of its jurisdiction a court may, if it appears in the course of the proceedings before it that there is evidence of a crime, occasionally refer the papers, at the end of the hearing, to prosecuting authorities, that is not relief which a party to proceedings is entitled to seek from a court. Even less so is it appropriate to seek such relief by an interlocutory application in this Court, before the proceedings have been heard. The applications for orders of referral are entirely inappropriate, quite apart from any question of merit. They invoke this Court's jurisdiction for an improper purpose, and thus are also an abuse of process."
>
> [32] The applicant's only response to *Hassan v Sydney Local Health District* is that he has been to the appropriate authorities with his complaints, and they have done nothing. He states that one official government body is passing it to the next and he is stuck in the middle.
>
> [33] What the applicant seeks to do in this Court is entirely inappropriate. In *McEwan v The Commissioner of Taxation of the Australian Taxation Office and Ors* [2022] QSC 81, Martin SJA said:
>
> > "This Court cannot direct the prosecution or investigation of any party. Nor can the plaintiff obtain orders of this kind as there is no cause of action which would entitle the plaintiff to that form of relief. This is a clear abuse of the Court's process."
>
> [34] The applicant is not entitled to seek relief in the form of referring individuals for investigation or prosecution. Accordingly, the application for leave to amend the original application is refused."

[22] The appellant's contentions were that:

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6 Reasons below at [31]-[34]. Internal footnotes omitted.

(a) *Hassan*[7] and *McEwan*[8] contradicted one another, and were irrelevant or inapplicable; the absurdity of those cases could be seen by the court's referral of material to the Legal Services Commission in *Chapel of Angels Pty Ltd v Hennessey Building Pty Ltd*;[9] and

(b) the court had power to direct the prosecution or investigation of a person under:

(i) s 36 and s 38 of the *Crime and Corruption Act 2001* (Qld);

(ii) s 429 of the *Legal Profession Act 2007* (Qld);

(iii) s 5E(1) of the *Law Society Act*; or

(iv) the common law.

Consideration

[23] The appellant's attempt to distinguish *Hassan* and *McEwan* is misconceived. He persistently failed to come to grips with the two distinct situations. One is where a court, of its own motion, refers material to relevant authorities in the course of proceedings. That falls within the court's jurisdiction. The other case is where that form of relief is sought by a party to the proceedings or a private person. In the second case there is no cause of action available for a person to seek such relief. No support is available from *Chapel of Angels*, as that is a case in the first category, not the second.

[24] *Hassan* and *McEwan* were both relevant and persuasive, if not binding. The problem identified by Brereton JA in paragraph [40] of *Hassan* (see paragraph [21] above) was later endorsed in a subsequent edition of the Hassan litigation, *Hassan v Sydney Local Health District (No 5)*.[10] There the Court of Appeal of New South Wales referred to a decision of Brereton JA where he refused an order sought by Mrs Hassan to refer a person to the Commonwealth Director of Public Prosecutions:[11]

> "his Honour was correct to conclude that Mrs Hassan was not entitled to an order that numerous named persons associated with the RPA, and judicial officers who had heard her claims, should be referred to the CDPP for allegedly breaching the *Crimes Act 1914* and the *Criminal Code*. **Leaving aside the profound and insurmountable constitutional problems with Mrs Hassan's suggestion**, not the slightest evidence was provided warranting referral of anybody to any (federal or state) investigatory or disciplinary body;"

[25] The learned primary judge was, in our respectful view, correct to apply both *Hassan* and *McEwan*.

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7 [2021] NSWCA 97.
8 [2022] QSC 81.
9 [2022] QCA 232.
10 [2021] NSWCA 197.
11 *Hassan v Sydney Local Health District* at [31](2). Emphasis added.

[26] Nothing in s 36 or s 38 of the *Crime and Corruption Act* has the effect of enabling the court to grant relief in the form of an order referring a person for investigation when that is sought by a private individual.

[27] Section 36 governs when a person can make a complaint about corruption to the Crime and Corruption Commission:

> "**36 Complaining about corruption**
>
> (1) A person may make a complaint about corruption to the commission for the purpose of the commission dealing with the complaint under section 35.
>
> (2) Subsection (1) does not limit to whom a person can complain about corruption.
>
> *Examples—*
>
> 1 A person may complain directly to the commissioner of police about corruption.
>
> 2 A person may complain directly to the chief executive of a government department about corruption happening within the department."

[28] As can be seen s 36 enables a person to make a complaint. It says nothing about a person seeking that a court do so.

[29] Section 38 imposes a duty on a public official to notify the Crime and Corruption Commission if that official suspects that a complaint or matter involves corrupt conduct:

> "**38 Duty to notify commission of corrupt conduct**
>
> (1) This section applies if a public official reasonably suspects that a complaint, or information or matter (also a ***complaint***), involves, or may involve, corrupt conduct.
>
> (2) The public official must notify the commission of the complaint, subject to section 40."

[30] The term "public official" is defined in Schedule 2 to the Act to mean:

> "***public official*** means—
>
> (a) the ombudsman; or
>
> (b) the chief executive officer of a unit of public administration, including the commissioner of police; or
>
> (c) a person who constitutes a corporate entity that is a unit of public administration; or
>
> (d) the inspector of detention services under the *Inspector of Detention Services Act 2022*."

[31] Whilst a state court is a unit of public administration (see s 20(1)(g) of the Act), the only "public official" of the court is the "chief executive officer". That office is not filled by a judge.

[32] Section 38 therefore does not assist the appellant's contentions.

[33] Section 429 of the *Legal Profession Act* relevantly provides:

> "**429 Making a complaint**
>
> (1) Subject to subsection (5), an entity may make a complaint in the approved form to the commissioner about the conduct of an Australian legal practitioner, law practice employee or unlawful operator, including, for example, an entity that—
>
> (a) is or was a client of the law practice; or
>
> (b) is the relevant regulatory authority."

[34] As is plain the section deals with how an "entity" can make a complaint. The term "entity" includes a person: Schedule 1 of the *Acts Interpretation Act 1954* (Qld). However, s 429 says nothing to support the proposition that a party to a proceeding can seek relief in the form of a referral of a complaint by a court.

[35] The appellant's reliance on s 5E(1) of the *Queensland Law Society Act 1952* (Qld) is misplaced. That Act was repealed in 2007 by the *Legal Profession Act*.

[36] One need only refer to *Hassan* and *McEwan* to make it clear that at common law there is no cause of action available to the appellant to seek relief in the form of an order referring material to prosecuting or investigation authorities. Further, the fact that the appellant has already made complaints to the Crime and Corruption Commission[12] as to the essential subject matter of his present complaints, and the Commission has evidently considered there is nothing to warrant an investigation, makes his application for such orders an abuse of process.

[37] In our respectful view, the learned primary judge was correct to reject the application for relief in the form of orders referring matters to the Legal Services Commission, the Director of Public Prosecutions, or the CCC. Consequently, it cannot be demonstrated that her Honour erred in dismissing the application to amend the originating application to raise a claim to such relief.

Application to adduce further evidence on the appeal – joinder of new respondents

[38] As examined above, part of the appellant's case before the learned primary judge was an application to amend the originating application, to join other respondents. That application was dismissed by the learned primary judge on the basis that the Supreme Court had no power to grant the relief sought if those parties were joined.

[39] Before this Court on the appeal, the appellant advanced submissions that the learned primary judge erred in refusing leave to amend. To support that contention the appellant applied to adduce further evidence. At the hearing of the appeal that application was reserved.

[40] It is as well to recall the relief sought in the originating application. In summary it was:

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[12] To which we will refer as the CCC.

(a) that the Supreme Court or District Court re-hear the partially heard committal proceeding involving the applicant currently on foot in the Brisbane Magistrates Court and make a determination or decision on the application to cross-examine witnesses in accordance with section 83A(5AA) of the *Justices Act 1886* (Qld); and

(b) in the event that the Court refused to rehear the matter in the Supreme or District Courts, that Magistrate Previtera be disqualified from further presiding over or hearing the applicant's District Court matter.

[41] The intended relief against the nine persons sought to be joined was that the Court refer them to the Director of Public Prosecutions or the Legal Services Commissioner.

[42] For the reasons set out above in paragraphs [19] to [37] the application to amend to join the additional parties was correctly dismissed on the basis that there was no power in the Court to grant such relief as there was no cause of action available to support the claimed right to relief.

[43] The consequence of that conclusion for the application before this Court to adduce additional evidence on the appeal is that there is no basis to do so, as its aim is to support a claim to relief that is not available.

[44] The application to adduce further evidence should therefore be refused, with costs.

[45] However, as will appear, we have dealt with the evidence sought to be adduced and have concluded that there is nothing to the complaints made about the appellant's treatment before the courts.

Further evidence as to the conduct of the hearings

[46] The appellant's contentions focussed on what was said to be evidence of misconduct in the course of various hearings in the Magistrates Court. The essential submission is that the learned primary judge misapprehended the facts as revealed in the transcripts. It is therefore necessary to examine them to see if there is any justification for the submissions.

Magistrate Coates – 7 March 2022

[47] The appellant submitted that a fair reading of the transcript of a hearing before Magistrate Coates on 7 March 2022 should have revealed to the learned primary judge that the Magistrate was not impartial or unprejudiced. Instead, the appellant submitted, the transcript shows:[13]

(a) the appellant's material and the appellant himself being ridiculed by questioning his mental health and having his material be labelled a "box of tricks"; and that both were done in the courtroom in the absence of the appellant before the hearing commenced;

(b) once the appellant was in the courtroom, and after placing his material on the table, being told by the decision-maker to put his material away, before submissions were made;

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13 Appellant's outline paragraph 12.

(c) no submissions were invited from the prosecution by the decision-maker at any time during the mention; and

(d) the decision maker's refusal to deal with a request made by the appellant.

[48] As the transcript shows, the hearing before Magistrate Coates was a mention at a callover on 7 March 2022.[14] The learned primary judge dealt with the events at that hearing in some considerable detail.[15] Having read the transcript it is our respectful view that the learned primary judge was correct in the analysis of the statements made by the Magistrate, and the rejection of any assertion that it displays animus of any kind against the appellant.

[49] The hearing started with the prosecutor announcing her appearance and Mr McDowell appearing as a friend of the court, explaining that the appellant had declined legal representation:[16]

> "MS GITTENS: I appear as prosecutor. Thank you, your Honour.
>
> HER HONOUR: What's happening with it?
>
> MR McDOWELL: Sorry, your Honour, can I just appear as friend of the court on that matter?
>
> HER HONOUR: Yes.
>
> MR McDOWELL: Legal Aid provided a grant to our office for this matter. We've contacted, and his response was, "I don't accept our office to represent him [indistinct] declined representation.
>
> HER HONOUR: Declined representation.
>
> MR McDOWELL: Yes."

[50] The hearing was adjourned at 9.23 am and resumed at 10.57 am. At that point the appellant had not yet appeared. Mr McDowell explained his position in the following exchange:[17]

> "MR McDOWELL: Yes, your Honour. That was the matter I appeared as friend of the court for. Legal Aid gave us the grant and then he declined our representation. I was just outside, believe it or not, talking to the – from Salvation Army to see if someone has actually checked in if this man has attended, but he says he hasn't spoken to them.
>
> HER HONOUR: All right. So we will – I'll just leave it, then, to a little bit later.
>
> MR McDOWELL: Yes. As I said, we're not on the record for that matter.
>
> HER HONOUR: Okay. Not on the record.

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14 AB 279. The transcript in the appeal record book is missing page 1-3. Page 1-3 appears as part of Exhibit TK-2 to the appellant's affidavit sworn 1 November 2022, part of Document 17 in the appeal record book (the USB).

15 Reasons below at [38]-[56].

16 AB 280 lines 5-20.

17 Transcript 1-3 lines 14-36.

> MR McDOWELL: We got the grant, but he declined it, so I thought I'd raise that, why I attended.
>
> HER HONOUR: All right. Well, I'll call him now and see if I can get him. You haven't seen him - - -
>
> UNIDENTIFIED SPEAKER: No, your Honour.
>
> HER HONOUR: No? No go out the back there? No rumble in the jungle? All right. Thanks a lot. Thanks a lot, Mr McDowell. Can we call this man. Does he suffer from mental illness, this fellow? Oh."

[51] It was the last comment the appellant says showed bias against him because the Magistrate questioned his mental state even though he was not in the courtroom. In our view, that construction of the comment is not tenable. Before he had entered the courtroom the Magistrate had been told by a legal representative (who had been granted legal aid to represent the appellant) that the appellant declined to be represented. The appellant had twice not appeared when his matter was called on. The Magistrate asked the legal representative whether the appellant suffered "mental illness" by way of a general inquiry about someone who had not appeared and declined free legal representation. The comment signified nothing derogatory about the appellant. Given the events, the question was understandable.

[52] The Magistrate then asked if the DPP appeared as well as the prosecutor, and Ms Gittens answered:[18]

> "MS GITTENS: I think not. I think it's just the one charge: unlawful stalking.
>
> HER HONOUR: But there's a whole box of – is this just a box of tricks, is it? He's here."

[53] The "box of tricks" comment is another that the appellant focusses on to suggest bias against him. We disagree. Having been told there was only one charge of stalking, the Magistrate commented: "But there's a whole box of – is this just a box of tricks, is it?". Like the learned primary judge we reject the assertion that that comment signified a "box of deception" (to use the appellant's description). It seems likely the Magistrate was referring to the size of the file when saying "But there's a whole box of". In any event nothing adverse to the appellant can be drawn from it.

[54] As the transcript shows the appellant appeared at that point. The following exchange then took place:[19]

> "HER HONOUR: All right. Come on down, sir. All right. Mr Karamaroudis. Good morning to you, sir.
>
> DEFENDANT: Good morning, your Honour.
>
> HER HONOUR: Okay. **Now – no, leave that all there. Right. This is just a mention. This is a callover. We don't need the whole box and dice today.** Now, what are you doing about the matter? How do you want to proceed with it? This is the charge of unlawful stalking.

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18 AB 281 lines 1-4.

19 AB 281 lines 8-40.Emphasis added.

DEFENDANT: Yes.

HER HONOUR: Right. And that's a committal matter. So have you got your court brief?

DEFENDANT: I've got the court brief. There's been considerable drama with my solicitors.

HER HONOUR: I don't want to hear about that, really. I'm just here to progress the matter on.

DEFENDANT: Okay. Okay. Well , I'd like to - - -

HER HONOUR: Righto. Okay. So you've got the brief and you're all ready to go and for a hand up committal.

DEFENDANT: No, no, no.

HER HONOUR: Well, all right. Well, tell me the no. What's in the no? Give us the no.

DEFENDANT: The no is that I've given my intention to the court previously to contest the committal."

[55] The appellant complained that he was prevented from using his material, and the Magistrate dealt with him aggressively and harshly. As did the learned primary judge, we reject that characterisation. That the appellant was told he would not need all the material he put on the bar table is not surprising. The hearing was a mention at a callover. It was not the occasion for full argument.

[56] Having ascertained that the committal was not to proceed on a summary basis, the Magistrate then dealt with the appellant's request for disclosure from police of telephone records. The Magistrate explained that the appellant would have to file an application:[20]

"DEFENDANT: … I've also asked for disclosure from the police in relation to an order made by Magistrate Sarra out at Wynnum. I asked for certain things from the - - -

HER HONOUR: Well , you'll have to deal with that with Wynnum. I'm – can't help you with Wynnum.

DEFENDANT: That's okay. I'd like to ask for a directions hearing today in order to obtain a urgent telephone record and - - -

HER HONOUR: No. You've filed your application, have you?

DEFENDANT: I beg your pardon, madam?

HER HONOUR: You filed any application?

DEFENDANT: I – this is the application.

HER HONOUR: No, you have to file it. Has to be filed and served. Okay. Any applications - - -

DEFENDANT: I have - - -

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[20] AB 281 line 40 to AB 282 line 22.

> HER HONOUR: Any applications to the court - - -
>
> DEFENDANT: I have applied for - I have made an application for disclosure.
>
> HER HONOUR: Any application to the court by close of business – close of business – I'm making directions now. Close of business, 28th of March."

[57] The appellant complains that he was not allowed to make an application for disclosure, or that his oral application was not entertained. This, he said, showed unfairness and bias against him. Like the learned primary judge, we disagree.

[58] On a callover it is not at all unusual for the opportunity to address the court to be truncated. That he was not allowed to develop submissions as on an application for disclosure does not mean that the Magistrate was biased, aggressive, rude or anything other than seeking to progress a matter efficiently. A mention at a callover is not the time or place for full argument on such an application, as the Magistrate told him. It is not surprising that the appellant was told that he had to file any application he wanted to bring, as that hearing was not intended to do more that call the case on to see what had to be directed for its proper management.

[59] In our view, nothing in that hearing offers the slightest support for the suggestion that the appellant was tricked by the Magistrate, shown hostility or deprived of procedural fairness.

[60] We pause to observe that in this instance, as with other assertions by the appellant of a denial of procedural fairness, the appellant misconceives the scope of that doctrine. Procedural fairness encompasses the right to be heard on the particular issues that the court is dealing with at the hearing. It is not the case that every hearing serves as an occasion for a litigant to ventilate every argument on all matters, especially those tangential to the issues being dealt with on that occasion. As was said by Mason J in *Kioa v West*:[21]

> "Where the decision in question is one for which provision is made by statute, the application and content of the doctrine of natural justice or the duty to act fairly depends to a large extent on the construction of the statute. In *Mobil Oil Australia Pty. Ltd. v. Federal Commissioner of Taxation* (1963) 113 CLR 475 at pp 503-504, Kitto J. pointed out that the obligation to give a fair opportunity to parties in controversy to correct or contradict statements prejudicial to their view depends on "the particular statutory framework". **What is appropriate in terms of natural justice depends on the circumstances of the case and they will include, inter alia, the nature of the inquiry, the subject-matter, and the rules under which the decision-maker is acting** (*Reg. v. Commonwealth Conciliation and Arbitration Commission; Ex parte Angliss Group* (1969) 122 CLR 546, at pp 552-553; *National Companies and Securities Commission v. News Corporation Ltd.* (1984) 156 CLR 296, at pp 311, 319-321.)"

[61] A similar view was echoed by Wilson J:[22]

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21 (1985) 159 CLR 550 at 584-585. Emphasis added.

22 *Kioa* at 594. Emphasis added.

> "As Stephen J. remarked in *Salemi* [No 2] ((1977) 137 CLR, at p 444) **it is now a truism that in cases in which the rules of natural justice are applicable the procedural consequences will not necessarily be uniform.** They will depend upon what Kitto J. described, in *Mobil Oil Australia Pty. Ltd. v. Federal Commissioner of Taxation* (1963) 113 CLR 475, at p 504 , as "the particular statutory framework" within which they are to apply. His Honour continued:
>
> > "By the statutory framework I mean the express and implied provisions of the relevant Act and the inferences of legislative intention to be drawn from the circumstances to which the Act was directed and from its subject-matter: cf. *Ridge v. Baldwin* ([1964] AC 40 at p 73). As *Tucker* L.J. said in *Russell v. Duke of Norfolk* ([1949] 1 All ER 109, at p 118), in a passage approved by the Privy Council in *University of Ceylon v. Fernando* ([1960] 1 All ER 631, at p 637), there are no words which are of universal application to every kind of inquiry and every kind of tribunal**: 'the requirements of natural justice must depend on the circumstances of the case, the nature of the inquiry, the rules under which the tribunal is acting, the subject-matter that is being dealt with, and so forth'**".

[62] Thus, at a hearing that is merely a mention, or a mention at a callover, the court will not usually entertain substantive issues for determination, but rather more procedural or administrative issues. So it was with the hearing before Magistrate Coates.

[63] Moreover, the learned primary judge's findings as to the hearing before Magistrate Coates were, in our view, carefully considered and correct. There is nothing in those findings that would warrant the unfortunate and intemperate attack made by the appellant, both orally and in his outline.[23] We are reluctant to repeat what was said, but the following passage is indictive of many such outrageous allegations made by the appellant:

> "16. Justice Wilsons judgement of the conduct of magistrate Coates by normalising conduct that was hostile, unreasonable and indicative of a predetermination on the part of magistrate Coates can and ought to be seen as symbiotic protection of magistrate Coates and of the Brisbane magistrates court in general and is evidence of actual bias and cogent evidence of corrupt conduct by Justice Wilson.
>
> 17. By making this judgement in the circumstances of all the evidence of corrupt conduct from magistrate Previtera and Chief magistrate Brassington and the evidence of the conduct of magistrate Coates in court on 7 March 2022, Justice Wilsons decision in relation to refusing leave to amend the originating application was so unreasonable that it lacked an evident and intelligible justification when all relevant matters were considered and has either;

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[23] Outline paragraphs 16-17. Internal footnote omitted.

i) made significant errors of fact, failing to understand the evidence, or

ii) demonstrated actual bias, or

iii) demonstrated corrupt conduct in that by doing so, her Honour was symbiotically protecting magistrate Coates and the Brisbane Magistrates Court, shielding them from the allegation of a conspiracy to prejudice the appellant."

[64] That passage is an example of the unfortunate approach taken by the appellant in his submissions generally. It is that sort of conduct to which we have referred at paragraphs [13] to [17] above.

Magistrate Previtera – 31 March 2022

[65] The appellant complained that Magistrate Previtera was part of a coordinated plan to deny him procedural fairness in relation to the charge of stalking, which is the subject of the yet to be heard committal. One such occasion was on 31 March 2022 when the appellant sought two orders:

(a) the reopening of a directions hearing held on 17 March 2022; and

(b) a permanent stay.

[66] The transcript of that hearing was before the learned primary judge as it was before this Court.[24] The learned primary judge dealt with the submissions as to this hearing in considerable detail.[25]

[67] After the Magistrate read into the record a long list of the material her Honour had read for the purposes of dealing with the appellant's two applications,[26] the Magistrate informed him that a direction had been given on 7 March 2022 that any applications had to be filed by 28 March 2022.[27] As a consequence the Magistrate said that the only two applications to be dealt with were those as to reopening a directions hearing and the permanent stay. The appellant acknowledged that was the case.[28]

[68] The learned primary judge set out the steps taken in the hearing of those applications in a way that is faithful to what the transcript reveals.[29] Both applications were dismissed.

[69] The appellant then sought that the Magistrate recuse herself. That application was dismissed.[30]

[70] The appellant's submissions to the learned primary judge were summarised in this way:[31]

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24 AB 288.
25 Reasons below at [72]-[87].
26 AB 289-293.
27 AB 293 line 41 to AB 294 line 22.
28 AB 294 lines 31-35.
29 Reasons below at [77]-[84].
30 Reasons below at [85].
31 Reasons below at [86].

> "(a) in a continuation of the organised campaign of prejudice conducted by the Brisbane Magistrates Court against the applicant, Magistrate Previtera literally took over the applicant's matter in the Magistrates Court and has conducted hearings which deny the applicant procedural fairness;
>
> (b) Magistrate Previtera exhibits apprehended and actual bias and makes comments that indicate her Honour's court is a place where corrupt conduct and misconduct from police is normal and everyday behaviour; and
>
> (c) Magistrate Previtera's conduct indicates that no matter what evidence the appellant presents, she will order in the police's favour."

[71] Having carefully read the whole transcript of this hearing, in our view there is nothing in what occurred on 31 March 2022 that bespeaks bias or apprehended bias, nor that the Magistrate has taken over proceedings in a way that denied or would deny procedural fairness to the appellant. To the contrary, the Magistrate permitted the appellant to make his submissions at some length and in detail.[32] The interventions by the Magistrate were entirely orthodox attempts to:

(a) precisely identify the admissible evidence relied upon;[33]

(b) ensure that the submissions were accurate and not an overstatement;[34]

(c) ensure that submissions were relevant and not just declamatory statements;[35]

(d) explain matters of procedure and the inability of one judge to direct another what to do;[36]

(e) explore when, if the appellant's applications failed, the committal could be heard;[37]

(f) explain that when police made allegations in relation to a charge, the mere fact that those allegations are contested does not mean that there has been corruption, or coaching of witnesses or perverting the course of justice;[38]

(g) explain why the Magistrate had a different understanding of what the Crime and Corruption Commission meant in a letter;[39]

(h) exploring the precise scope of the submissions and to bring the appellant to the point;[40]

(i) question the relevance of evidence to the issues on the two applications;[41]

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32 AB 295-337.
33 AB 295-297; AB 302-304; AB 307-310; AB 314-315; AB 318; AB 328.
34 AB 297.
35 AB 304; AB 328.
36 AB 298-299.
37 AB 305-306.
38 AB 315 line 19 to AB 316 line 14; AB 323-325.
39 AB 316 line 20 to AB 317 line 45, AB 318-322; AB 327.
40 AB 323-324; AB 326; AB 329-330; AB 333-336.
41 AB 315 line 19.

(j) have the appellant read an authority on the issue of the stay and make submissions in respect to it;[42] and

(k) prevent undue interruption of the prosecutor.[43]

[72] After the Magistrate gave reasons for dismissing the applications there remined the question of directions to take the matter forward.[44] Notwithstanding the appellant's interruption of that process, and abuse of the Magistrate, there was nothing untoward in the conduct of the Magistrate.

The second aspect – hearing 31 March 2022

[73] Before the learned primary judge, and again before this Court, the appellant's attack as to this hearing included the complaint that the Magistrate had not viewed the material on a USB stick which was part of the material on which the appellant relied on the two applications. The appellant made three related submissions:

(a) that Magistrate Previtera created processes and practices which prevented consideration of material the applicant filed in order to impugn the credibility of the arresting officer "that exist only in her Honour's mind";[45]

(b) that Magistrate Previtera has not only prejudged the outcome of the application in that the arresting officer will not be cross-examined on issues of credit involving illegalities, but that she is also protecting corrupt police;[46] and

(c) Magistrate Previtera demonstrated actual bias and had invented new laws and practices that prevented Magistrate Previtera from viewing evidence.[47]

[74] The appellant framed the challenge to the learned primary judge's approach to this issue by adopting a now familiar formulation:[48]

> "22. By failing to judge on this assertion and the evidence substantiating it and in the circumstances, Justice Wilson demonstrated actual bias, also failing to judge on the weight of the evidence.
>
> 23. By avoiding judgement of this bizarre prejudicial conduct from magistrate Previtera, Justice Wilson demonstrated corrupt conduct in that by avoiding judgement of this comment, Justice Wilson was symbiotically protecting magistrate Previtera and the Brisbane magistrates court in general.
>
> 24. By dismissing the originating application without judging this assertion, Justice Wilson judged against the weight of the evidence."

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42 AB 330-332.
43 AB 338.
44 AB 340-345.
45 Reasons below at [158].
46 Reasons below at [159].
47 Appellant's outline paragraph 19.
48 Appellant's outline paragraphs 22-24.

[75] In the course of his submissions to the Magistrate, the appellant was directed to a decision of this Court in *Higgins v Comans*.[49] He indicated that he had a copy.[50] The relevance of that decision was obvious. It was there held that there was no power for a Magistrate to permanently stay a committal under the *Justices Act 1886* (Qld).

[76] The appellant was urged to read the decision which he did immediately, in court.[51] He then addressed the decision, focussing on the fact that it involved the question of a stay of proceedings in relation to the cross-examination of witnesses.[52]

[77] The importance of that exchange is that the Magistrate had binding authority to the effect that her Honour had no power to grant the permanent stay. Her Honour expressed its significance to the application:[53]

> "HER HONOUR: All right. Just read this decision, because it's going to very much truncate proceedings, given that what you're asking me to do I've got no power to do. It's a decision of the Queensland Court of Appeal, the highest criminal court in the state."

[78] Once submissions on both sides had been completed, the Magistrate gave judgment.

[79] After the judgment had been given, this exchange occurred:[54]

> "DEFENDANT: You said you read the affidavit. Did you actually watch any of the video or listen to the recordings attached to those affidavits, your Honour?
>
> HER HONOUR: No, I didn't do that.
>
> DEFENDANT: So on one hand you say that you've – that there is no evidence. On the other hand, you say that you viewed all the affidavits, and on the other hand, you say that the evidence doesn't support what I'm saying. That's an unusual – that's – anyway, it'll all be on the transcript. That's fine. That's shocking, your Honour.
>
> HER HONOUR: You can complain to the Chief Magistrate.
>
> DEFENDANT: I can do more than that."

[80] The appellant's challenge based on the Magistrate's failure to view the video recordings and listen to recorded phone calls is misconceived. Her Honour made it plain that she had read all the documentary material. Her Honour tasked the appellant again and again to advance admissible evidence of the allegations he was making. The video and audio recordings were simply annexed to one of his affidavits. That did not, and does not, make them admissible.

[81] Even if they were admissible the recordings of themselves do not prove the corruption or misconduct that the appellant refers to. They simply establish that some facts were not as some police witnesses recalled. Much more would be

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49 (2005) 153 A Crim R 565.
50 AB 331 lines 3-4.
51 AB 331 lines 35-42.
52 AB 331 line 46 to AB 332 line 30.
53 AB 331 lines 35-38.
54 AB 342 lines 20-32.

required by way of proof to reach the level of certainty required to make a finding akin to fraud on the part of the police. For example, the police witnesses may have an explanation as to the discrepancy that satisfies the tribunal of fact. In short, the recordings do not, as the appellant would wish, mean that a court automatically leaps to a conclusion of corruption or misconduct.

[82] In any event, those recordings were put forward by the appellant in support of the application for a permanent stay of proceedings. The Magistrate held that there was no power to grant such a stay. Her Honour was undoubtedly correct, based on the decision of this Court in *Higgins v Comans*. Therefore, the failure to watch or listen to the recordings was inconsequential to the outcome of the application.

[83] These points were addressed by the learned primary judge, who concluded that they did not demonstrate bias, apprehended bias, or any form of misconduct. No error has been demonstrated in the findings by the learned primary judge.

The same point – hearing 25 August 2022

[84] On 25 August 2022 the appellant appeared before Magistrate Previtera at which time he made an application that the Magistrate recuse herself, and further, for leave to cross-examine three witnesses at the committal hearing.[55] The recusal application was refused. The application to cross-examine was not completed as the appellant experienced a medial issue and the application was adjourned part-heard.[56]

[85] The appellant complains that at this hearing the Magistrate refused to watch the video recordings on the USB, stopped watching the USB evidence, stopped the parties from watching it, and "invented laws to justify the non-viewing of material which incriminates police officers".[57]

[86] The learned primary judge dealt with these points carefully and comprehensively.[58]

[87] For a number of reasons the appellant's complaints are, in our view, misplaced.

[88] First, as the learned primary judge points out, the Magistrate made it clear to the appellant that the reason that she had not seen the videos was that it would be inappropriate for her to view the videos in the privacy of her chambers without the prosecution having already also seen what was on them.[59]

[89] Secondly, as became clear in the course of oral submissions during that hearing, the Magistrate told the appellant that her Honour was proceeding on the basis that, contrary to the arresting police officer's statement, the appellant was not visibly enraged on the night of his arrest.[60] That was the point that the appellant wanted to establish by the video evidence. Of course, the appellant sought to portray that as corrupt conduct, but the evidential foundation for his submission was accepted.

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55 The transcript of this hearing is part of Exhibit 6 in document 17 of the record book. Exhibit 6 is an affidavit of the appellant dated 24 October 2022.

56 Reasons below at [18]-[21].

57 Reasons below at [138].

58 Reasons below at [162]-[181].

59 Reasons below at [166].

60 Reasons below at [170]-[173].

[90] Thirdly, before the learned primary judge that factual position was accepted:[61]

> "[179] However, the magistrate was prepared to proceed on the basis that the applicant was not visibly enraged in the watchhouse video. Such a position is contrary to the arresting officer's affidavit opposing the applicant's bail. Counsel for the first respondent agrees that the watchhouse video does not meet the descriptions as set out by the arresting officer in her affidavit opposing the applicant's bail:
>
> > "HER HONOUR: So what we've seen here, at the watch-house, doesn't entirely meet the description as set out in the bail affidavit. Do you agree with that?
> >
> > MR BONASIA: I do.
> >
> > HER HONOUR: Okay.
> >
> > MR BONASIA: And all the other audio and footage that I was able to observe once Mr Karamaroudis was put into the cell, can I say, seemed to be quite pleasant from him - - -
> >
> > HER HONOUR: Okay.
> >
> > MR BONASIA: - - - and quite calm.
> >
> > HER HONOUR: Thank you.
> >
> > MR BONASIA: He spoke to his cellmate in a respectful way. In fact, he was almost comforting the cellmate, and at one point when the cellmate was asleep, police delivered a blanket, and Mr Karamaroudis placed the blanket on the cellmate. So there was conversations during the night over the intercom with police, where Mr Karamaroudis was critical of the police in the seizing of his phone and how he wanted his phone back, and what the phone may or may not show in support of the brief of evidence. But otherwise, I certainly - if I was to make the submission, I would not have described him as - - -
> >
> > HER HONOUR: As that.
> >
> > MR BONASIA: - - - as high as it was in that bail affidavit.
> >
> > HER HONOUR: Yes. It's actually not a submission, though. It's an affidavit, isn't it?
> >
> > MR BONASIA: Yes."

[91] Fourthly, at issue that day was the application to cross-examine witnesses at the committal. Once the discrepancy between the bail affidavit and the actuality was accepted, there was no purpose in viewing the USB material further. However, the

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61 Reasons below at [179].

application is not finalised. It is part-heard. On the resumption of the application the appellant can press, if he so chooses, for the Magistrate to view the USB material. Whether that occurs depends on the issues and arguments advanced at that time. That is the conclusion reached by the learned primary judge:[62]

> "[180] This application is still ongoing, and the magistrate has yet to consider all of the applicant's submissions and evidence. It will ultimately be a matter for the magistrate to consider whether these matters raised by the applicant in relation to the arresting officer's credit are substantial reasons why, in the interests of justice, the arresting officer should be made available for cross-examination."

[92] The learned primary judge was, in our respectful view, plainly correct to find that the appellant's complaints in this respect were baseless.[63] There is no error demonstrated.

The Crime and Corruption Commission letter

[93] The appellant advanced, both at first instance and before this Court, the proposition that a letter from the Crime and Corruption Commission was to the effect that the Court would take action against corrupt police officers at the conclusion of his matter.

[94] One needs to assess the terms of the latter in the context in which it was sent.

[95] The background and essential contentions were set out by the learned primary judge in a way not relevantly criticised by the appellant:[64]

> "[141] The background to this is that over the period of May 2021 to April 2022, the applicant corresponded with the CCC. In particular, the applicant highlighted four pieces of correspondence from the CCC in his material, including:
>
> (a) a letter dated 31 January 2022, which sets out a summary of the applicant's concerns and advised that the CCC would not be taking any further action;
>
> (b) a letter dated 25 February 2022, which advised that the CCC would not engage in further communication with the applicant;
>
> (c) an email dated 22 March 2022, which advised that the CCC would not be taking any further action in relation to the applicant's concerns as expressed in his online lodgement form to the CCC dated 22 February 2022; and
>
> (d) a letter dated 19 May 2022, which advised that the CCC refused the applicant's request for a Complaint Service Review.

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62 Reasons below at [180].
63 Reasons below at [165].
64 Reasons below at [141]-[142]. Internal footnote omitted.

> [142] In relation to this correspondence the applicant claims that the CCC have confirmed police misconduct and it is relevant to show that the police have conducted a campaign to discriminate against him from the very start. He further states that:
>
> (a) the letter dated 31 January 2022 is written "ambiguously" and is "an attempt by the CCC to paint several officers with the weakest shade of corrupt paint possible"; and
>
> (b) the letter dated 25 February 2022 "confirms several police officers were investigated and that the reason that no action is being taken against them ... is because they are to provide input into my matter as it has prerogative ...""

[96] The letter dated 31 January 2022 is the key letter in terms of the appellant's submissions. It reads:[65]

> "The CCC will not be taking any further action on the concerns you have raised in your recent correspondence. **Whilst the concerns you raise (specifically about QPS prosecutors and SCON Barker), could be considered as meeting the threshold of corrupt conduct or police misconduct** under the *Crime and Corruption Act 2001* (Qld) (the Act), the CCC has decided to take no further action as it is an unjustifiable use of resources to do so. The concerns you raise about Power and the ESC's handling of your complaints have also been addressed below.
>
> **In relation to allegations about the conduct of QPS prosecutors during court proceedings, the CCC considers that the allegations are likely to be in issue as part of the proceedings** ... The CCC notes that ultimately, the courts have a responsibility to hear and determine the facts or the evidence provided by both QPS Prosecution and yourself.
>
> In relation to your concerns about SCON Barker (i.e. complaint lodgement form ref: 1636678557), **the CCC considers that her statement in a bail affidavit that your demeanour during arrest was 'erratic, enraged and unstable' on 25 March 2021 is ultimately one to be heard and reviewed by the presiding judge as part of court proceedings.** The CCC notes that SCON Barker is entitled to assess your demeanour during your arrest based on her observations and experience much like you are able to deny that your demeanour was that as described by the SCON. As aforementioned, it is the responsibility of the court to hear evidence in relation to charges against you and any context provided by arresting QPS officers before making a decision on the matter. Noting this, the CCC will be taking no further action on the matter.
>
> In relation to concerns about your interaction with Power from the ESC of QPS on 8 October 2021 and the ESC's overall handling of

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65 Emphasis added.

> the complaints you made in late June 2021, the CCC does not consider the conduct as you have described as such that it constitutes corrupt conduct and (or) police misconduct under the Act ..."

[97] The appellant contended, repeatedly, that this letter substantiated his complaints. It does no such thing.

[98] The appellant focusses on the words: "**Whilst the concerns you raise** (specifically about QPS prosecutors and SCON Barker), **could be considered as meeting the threshold of corrupt conduct or police misconduct** under the *Crime and Corruption Act 2001*".

[99] Those words are not able to be read as the appellant chooses to read them. They in no way endorse a view that the conduct of which the appellant complains is, in fact, corrupt or misconduct under the Act. The CCC has simply said that the appellant's allegations (the concerns he raises) **could be considered** as meeting the relevant threshold. It does not say that those allegations do meet that threshold. That is the same as saying that an allegation, **if proven**, could meet the relevant standard of conduct. It says nothing at all about whether those allegations are, in fact, proved.

[100] Nor does the letter suggest that the CCC has investigated the allegations. To the contrary, the letter is at pains to say that no action will be taken, for the reasons set out.

[101] It would be an astonishing thing if the CCC expressed a conclusion that certain conduct was corrupt conduct or police misconduct on the part of a named officer, when the CCC had not investigated the allegations, let alone given the officer an opportunity to counter what was alleged.

[102] The error in the appellant's construction of this letter was pointed out to him repeatedly by Magistrate Previtera, and the learned primary judge. We would go further than the finding by the learned primary judge,[66] namely that the view of the letter's terms was one open to the Magistrate. The meaning attributed to the letter by the appellant is not open. The Magistrate construed the letter correctly, as did the learned primary judge. Both were, in our view, plainly correct to reject this contention by the appellant.

[103] The same conclusion applies to the CCC letter dated 25 February 2022. That letter advises that the allegations of corrupt conduct "would, **if proven,** amount to corrupt conduct",[67] however the information the appellant provided "is insufficient to raise a reasonable suspicion that the alleged conduct has actually occurred". It is perverse to read that letter as having endorsed or substantiated the appellant's allegations.

A related point – addition of words by the Magistrate?

[104] The appellant contended before the learned primary judge, and to this Court of the application for interlocutory relief,[68] that Magistrate Previtera had added words to the CCC letter when debating its meaning and had done so "in order to protect corrupt police officers".[69]

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66 Reasons below at [150], [154] and [157].

67 Emphasis added.

68 Appellant's application outline paragraph 11.0; Appellant's affidavit filed 1 November 2022, paragraphs 48-50 (on USB, document 17).

69 Appellant's affidavit filed 1 November 2022, paragraphs 50 (on USB, document 17).

[105] The point focussed on what was said by the Magistrate during the hearing on 31 March 2022. It is again necessary to refer to the transcript.[70]

[106] The exchange occurred in relation to the first paragraph of the CCC letter, set out in paragraph [96] above.

[107] In the course of submissions from the appellant as to what the letter signified, her Honour observed:[71]

> "HER HONOUR: The … CCC said they're not investigating. They're not investigating. They don't want you to keep writing to them. They want you to go straight to Ethical Standards and if you keep writing to the CCC, they're not going to respond."

[108] Then, in response to the further submission that the letter should be read as meaning that the CCC had found that the officers' conduct met the threshold of corruption, her Honour observed:[72]

> "HER HONOUR: No. No. They're saying that, "The allegation … that you make could be considered as meeting the threshold but we're not going to investigate it because it's an unjustifiable use of resources to do so." I don't know how much clearer they can be than that."

[109] The appellant's contention was that at no point did the CCC say they had not investigated. Therefore, it was said, the Magistrate had impermissibly added words to alter the meaning of the letter.

[110] In our view, the Magistrate did not distort the meaning of the letter. All her Honour was doing was to paraphrase how she construed its meaning. The letter does not suggest that the CCC has investigated the allegations. To the contrary, the letter is at pains to say that no action will be taken, for the reasons set out, consequent upon the appellant's complaint. In other words, no step had been taken to investigate the complaint as that would be "an unjustifiable use of resources".

[111] This point has no merit.

Magistrate Previtera – admission as to certain courtroom procedures?

[112] This contention is one of the more extreme examples of the appellant's misconstruction of what was said by the Magistrate.

[113] Before the learned primary judge the appellant contended that the Magistrate Previtera had stated words to the effect that police officers commit criminal offences, abuse their power and make misrepresentations in the court room on a daily basis.[73]

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70 Exhibit TK-3 to the appellant's affidavit filed 1 November 2022 (on USB, document 17).
71 Transcript 1-29 lines 27-30.
72 Transcript 1-32 line 42 to 1-33 line 3.
73 Appellant's outline paragraph 34.

[114] At the hearing on 31 March 2022 the Magistrate made the following observation to the appellant:[74]

> "HER HONOUR: - - - Karamaroudis, I'm concerned that what you fail to understand is that the police make allegations in relation to matters that they charge defendants with, and invariably there is a contest between the allegations that the police make and that the defence make. That is normal. We see it every day. So just because you disagree with the evidence that the police have put before the court doesn't mean that there's been corruption, coaching, perverting the course of justice.
>
> DEFENDANT: But I can prove those things.
>
> HER HONOUR: I mean, it's normal. It's called the criminal justice system.
>
> DEFENDANT: Yeah, but I can ---
>
> HER HONOUR: I mean … if people didn't contest what the police are saying, I'd be out of a job.
>
> DEFENDANT: But I can - - -
>
> HER HONOUR: That's the way the criminal justice system works."

[115] Soon thereafter the appellant submitted that there was prosecutorial misconduct by "misrepresenting the events around my matter".[75] The Magistrate then observed:[76]

> "HER HONOUR: Aren't there statements – there are statements of the complainant and other witnesses. That's the evidence. I mean, and the way that the law works is a complainant goes to the police station, makes a complaint, the police take a statement, the complainant has to swear – as do all of the witnesses – that they have told the truth, the whole truth and nothing but the truth, or affirm that that's the case, they sign something at the end of the statement that, in fact, says … every witness signs something that says:
>
> > *I acknowledge by virtue of section 110A(6C) sub (c) of the Justices Act (1) this written statement by me, dated X and contained in the pages numbered A to Z is true to the best of my knowledge and belief, and (2) I make this statement knowing that I may be liable to prosecution for stating anything that I know is false.*
>
> So that's how the system works. A complainant goes to the police station and says A, B, C and D. The police say, "Well, would you like to make a statement?" The complainant makes a statement. The police, you know, copy it down. The witness then signs it, having acknowledged … those words that I have just read out. And then if there are other statements of other witnesses that the police find out or that the complainant tells them about, the same process is gone

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74 AB 315 lines 36 to AB 316 line 10.
75 AB 323 line 34 to AB 324 line 6.
76 AB 324 lines 12-33.

> through. If the police are satisfied that there are elements satisfying an offence, then they charge the person and the person goes to court.
>
> …
>
> HER HONOUR: After they've been arrested.
>
> DEFENDANT: And then the arresting officer repeats the process by swearing information herself, doesn't she?
>
> HER HONOUR: Yes, about what she says happened during the arrest, which you may or may not have a contest with. I mean, it's normal."

[116] The appellant's attempt to portray these statements as being a confession that police officers commit criminal offences, abuse their power and make misrepresentations in the court room on a daily basis, must be rejected. All the Magistrate was doing was outlining the normal course of events at the early stages of a prosecution. It was an everyday occurrence that defendants disagreed with allegations made by the prosecution. The Magistrate emphasised that just because there was a difference of recollections as to what occurred did not mean there was misconduct of any kind.

[117] That is the conclusion reached by the learned primary judge.[77] No error can be demonstrated in those findings.

Hearing 25 August 2022 - Magistrate Previtera – comment re recordings

[118] The appellant complains that Magistrate Previtera demonstrated bias or engaged in corrupt conduct when, in respect of what recordings her Honour was going to view, said: "I'm only playing recordings where Samantha barker is involved on the footage".[78]

[119] The appellant also challenged the learned primary judge's treatment of that comment, asserting:[79]

> "57. Justice Wilson, by finding no bias demonstrated by magistrate Previtera in relation to this conduct made a significant error of fact, judging against the weight of the evidence, or demonstrated actual bias, or demonstrated corrupt conduct in that Justice [Wilson] was fully aware of the relevant issues and circumstances and by failing to judge the comment impartially, Justice Wilson was symbiotically magistrate Previtera."

[120] We have examined the transcript of that hearing.[80] It does not bear out the complaints made by the appellant.

[121] The hearing commenced with an application for the Magistrate to recuse herself for apprehended and actual bias. That application was dismissed. The Magistrate then commenced to hear the appellant's application to cross-examine witnesses at the

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77 Reasons below at [186]-[188].

78 Appellant's outline paragraphs 47-55.

79 Appellant's outline paragraph 57.

80 We note that the transcript is part of Exhibit 6 in Document 17 in the Appeal Book, Ex TS-1 to the appellant's affidavit sworn 24 October 2022. References to pages of the transcript are taken from that transcript.

committal. The three witnesses were identified by the appellant as: the complainant, the arresting Queensland Police Officer, Samantha Barker, and a witness BC.[81]

[122] The appellant explained to the Magistrate that in respect of Senior Constable Barker:[82]

> "On the 4th of July 2022, Brisbane prosecutions, Mr A.F. Colclough – response to the defendant's communication dated 28th of June 2022 outline of submissions has agreed to certain questions being put to Officer Samantha Barker during cross-examination. Yet, the questions allowed by Mr Colclough do not approach or are related to the Corruption and Crime Commission's findings regarding Officer Samantha Barker's erroneous conduct and false written statements concerning the defendant."

[123] As is evident from that passage the appellant sought to cross-examine SCon Barker on the basis that the CCC had found misconduct on her part. As explained earlier in paragraphs [93] to [103] of these reasons, the CCC had done no such thing.

[124] In response to a question from the appellant the Magistrate explained that she had not viewed the video footage, nor listened to the audio recordings.[83] After the appellant objected to the Magistrate having not viewed or listened to the recordings, the Magistrate said: "Well, let's view it"[84] and explained: "We're just going to watch the whole thing. We're going to watch the whole thing."[85]

[125] The appellant renewed his application for the Magistrate to stand aside, at which point the Magistrate twice explained why she had not viewed the recordings:[86]

> "DEFENDANT: Your Honour, I ask you to stand aside because you didn't do it before today.
>
> HER HONOUR: It is not appropriate for me to do it - - -
>
> DEFENDANT: You had no interest. You are not examining the facts of this case.
>
> HER HONOUR: It is not appropriate for me to do it other than in a courtroom where everyone can view it.
>
> …
>
> HER HONOUR: - - - that the reason that I haven't seen the videos is that it would be inappropriate for me to view the videos in the privacy of my chambers without the prosecution having already also seen what's on these - - -
>
> DEFENDANT: The prosecution has told me that she hasn't viewed it either.

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81 Transcript 1-5 lines 36-40.
82 Transcript 1-5 line 40-46.
83 Transcript 1-9.
84 Transcript 1-10 line 33.
85 Transcript 1-11 line 5.
86 Transcript 1-11 lines 13-21; and T 1-13 lines 3-13.

> HER HONOUR: No. That's right. So that's why we're going to do it in court, so everyone can watch it at the same time, because it would be very unfair if I decided to go on my own little frolic in my chambers and view it, and then come into court and say to the prosecutor, "Oh, by the way, I've actually seen all those. I'm not going to show you.""

[126] The Magistrate then commenced to watch the recordings in sequence. During the course of that process the appellant asked that he be excused from watching as he was being emotionally affected by it. The Magistrate declined, explaining that he had to be present so that he could "point me to certain parts of this evidence at the end, so unless you've got all those parts of the evidence written down already and you can refer to parts of the recording … that you're relying upon".[87] The playing of the recordings continued.

[127] When the court came to the footage from the watch-house, the appellant explained that it was SCon Barker who had sworn the bail affidavit. The Magistrate indicated that it was SCon's statement in respect of the offence that was important.[88] The following exchange then occurred:[89]

> "HER HONOUR: So let's just go through this and - - -
>
> DEFENDANT: - - - that watch-house footage. So I insist that this court examine it.
>
> HER HONOUR: - - - and if I see Samantha Barker on it I'll have to make up my mind whether she's in it or not.
>
> DEFENDANT: She's referred to. Hang on. Your Honour, if you give me a moment, you asked me to show you where the document is.
>
> HER HONOUR: And you haven't done it.
>
> DEFENDANT: I will show you where the document is. Just give me a moment.
>
> HER HONOUR: So we'll just start listening.
>
> DEFENDANT: If you're going to continue like this - - -
>
> HER HONOUR: No, you've told me to look for it myself.
>
> DEFENDANT: - - - I'm going to have to ask you to stand aside again.
>
> HER HONOUR: No, you've told me to look - no.
>
> DEFENDANT: You're denying me procedural fairness and natural justice.
>
> HER HONOUR: No, I'm not.
>
> DEFENDANT: Again - - -

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87 Transcript 1-17 lines 37-43.
88 Transcript 1-21 line 35 to 1-22 line 9.
89 Transcript 1-22 line 32 to 1-24 line 34. Emphasis added.

HER HONOUR: You're choosing - - -

DEFENDANT: - - - you're denying me procedural fairness - - -

HER HONOUR: You're choosing not to cooperate.

DEFENDANT: - - - because you're refusing to allow me to show you the document that is relevant to us watching this watch-house footage.

HER HONOUR: Well, show me. Show me – **show me her statement and that part of her statement where she refers to any of these recordings. I'm only playing recordings where Samantha Barker is involved on the footage.** I'm not sitting here playing - - -

DEFENDANT: We've already done it. I mean, we've just watched a whole lot of footage where - - -

HER HONOUR: No, Samantha Barker was on the first one.

DEFENDANT: She wasn't on that video that we just saw of the phone call.

HER HONOUR: No, she wasn't, and I was - - -

DEFENDANT: And, I'm delighted that we watched it. For reasons we'll get into later.

HER HONOUR: All right. **Well, I'm not watching anything that Samantha Barker's not in.**

DEFENDANT: But she's referred to this. We're watching it now.

HER HONOUR: No.

DEFENDANT: She's referred to this footage and she's stated that I was visibly enraged the whole time that I was in this video. So I insist that we watch the entire video because I'm impugning her credit.

HER HONOUR: Well, no. I'm sorry.

DEFENDANT: Okay. As long as we've got that on record.

HER HONOUR: Yeah, I'm sorry. Do you want me to be clear. We are not playing any videos where Samantha Barker is not on the video herself.

DEFENDANT: So you confirm that you haven't considered this evidence.

HER HONOUR: If you can show me those - - -

DEFENDANT: There is attached to my - - -

HER HONOUR: See - - -

> DEFENDANT: - - - it's attached to my material. It's sworn evidence. It's attached. It's an important part of my defence, and now you're confirming that you refuse to consider it.
>
> HER HONOUR: No, **I'm confirming that I'm asking you to be specific about which videos indicate and show Samantha Barker either on screen or on audio. If you do not indicate that, then I'm not listening to anything. But if you give me a list and say, "Samantha Barker is on this video. Samantha Barker can be heard on this video", then I'm not listening to them. That's your job, even though you're not legally represented. Now, you can either choose to do that or not.** I'm inviting you - - -
>
> DEFENDANT: Well, I better do my job.
>
> HER HONOUR: - - - to do that."

[128] Subsequently, in response to the appellant questioning why everything that might be used to impugn the credit of SCon Barker could not be played for the Magistrate, her Honour explained such material was not relevant to the issue on the application, namely to cross-examine a witness.[90] The playing of recordings continued, the Magistrate having determined that the appellant was not going to do what she had directed, namely identify which recordings had SCon Barker in them.[91]

[129] As the identification of relevant or irrelevant recordings progressed the Magistrate made it clear to the appellant that her Honour was proceeding on the basis that the appellant was **not** visibly enraged on the night at the watch-house.[92] It was at that point that the appellant said he was ill, and the court adjourned.

[130] There are a number of matters that emerge from the transcript of the hearing.

[131] First, the application was for permission to cross-examine witnesses at a committal. As with any committal, the decision to be made was whether there was sufficient evidence of the offence to put the appellant on trial. The committal was never going to be the trial of that offence.

[132] Secondly, the prosecutor had already agreed that certain questions could be asked in cross-examination of SCon Barker. Therefore, the issue on the application so far as it concerned SCon Barker was whether further, and what, questions might be permitted. It was that issue which took up the hearing on 25 August 2022. The application was adjourned before that issue had been fully addressed, either in terms of evidence or submissions, or determined.

[133] Thirdly, the Magistrate was endeavouring to identify relevant evidence that concerned SCon Barker's involvement. That is the plain explanation for her Honour's concentration on recordings which actually involved SCon Barker, not just things that SCon Barker may have referred to in documents other than her statement in respect of the offence.

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90 Transcript 1-25 lines 38-47.

91 Transcript 1-27 lines 22-31; 1-28 line 30; 1-29 line 34; and 1-30 line 34.

92 Transcript 1-32 line 41.

[134] Fourthly, inconsistencies between the bail affidavit of SCon Barker and what the video might have showed seem to go only to the credit of SCon Barker. As the Magistrate pointed out, the relevant document for the purposes of the committal was the arresting officer's statement as to the offence of stalking. As to that, the relevant discrepancy was in the description of the appellant's attitude at the watch-house. The learned primary judge summarised the position accurately.[93]

[135] The arresting officer objected to the applicant's bail, and in her affidavit states:

> "[170] Whilst conducting the search at the defendant's address, the defendant was visibly enraged by police presence and made comment about going to the victim's address to assault her husband.
>
> This rage did not subside over the time period he has been in custody..."

[136] It was this discrepancy that the appellant focused upon, before the Magistrate, at first instance and before this Court. However, the Magistrate expressly told the appellant that her Honour was proceeding on the basis that the appellant was not visibly enraged. In other words, although the appellant seemed not to comprehend the significance of that statement, the Magistrate was going to determine the application for permission to cross-examine SCon Barker on the basis that the appellant was right. Therefore, the issue of the bail statement became irrelevant to what had to be determined on that application. It follows that the Magistrate was right to attempt to ascertain what was relevant otherwise as to SCon Barker's material. That is all that the Magistrate was doing when the impugned comments were made.

[137] Fifthly, the appellant acknowledged before the learned primary judge that the Magistrate's comment did not mean that the Magistrate was biased against him. Of itself it signified nothing, but the appellant sought to persuade the learned primary judge that if that comment was seen with all other alleged conduct, then a different conclusion would follow. As it was put:[94]

> "HER HONOUR: But, look, what is it - even if you were right, and the magistrate is wrong about her legal view of that, that doesn't mean that she's bias against you.
>
> APPLICANT: It doesn't; on its own, it's nothing. On its own it's simply as the submissions - as Mr Bonasia's submissions have stated, it's simply a busy day. A tired Magistrate, busy court day. On its own it doesn't mean much at all, because it's nowhere in the statutes or in common law does it say that a magistrate has to be perfect, and no way, however, when that incident is viewed with all the other incidents, I'm just trying to paint a - to the - I'm correcting Mr Bonasia, and I'm trying to paint a picture to this court of all these stuff stuck together."

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93 Reasons below at [170].

94 AB 720 lines 8-17.

[138] In our view, the learned primary judge correctly found that there was no basis to criticise the Magistrate's conduct in this respect:[95]

> "[175] The magistrate had a significant amount of material in relation to the applications, which she indicated she had read before the hearing.
>
> [176] A magistrate not viewing recordings prior to a hearing is an entirely conventional practice. It is not, as the applicant asserts, indicative of criminal behaviour in that if the material is not considered, then no finding of corruption can be made.
>
> [177] The magistrate then began watching the videos and listening to recordings she considered relevant to the hearing listed on 26 August 2022; she did this in court and with the parties present.
>
> [178] I accept that this approach was appropriate because the magistrate was allowing the applicant to play his recordings, as long as they were relevant to the application to cross-examine the arresting officer. In relation to relevance, the magistrate confined the recordings to ones which involved a witness who the applicant sought to cross-examine."
>
> …
>
> [180] This application is still ongoing, and the magistrate has yet to consider all of the applicant's submissions and evidence. It will ultimately be a matter for the magistrate to consider whether these matters raised by the applicant in relation to the arresting officer's credit are substantial reasons why, in the interests of justice, the arresting officer should be made available for cross-examination."

[139] This point has no merit.

Hearing – 15 May 2023 – Magistrate Pinder

[140] Part of the appellant's submissions on the appeal were that he had been denied procedural fairness, or the Magistrates Court had shown bias, in the hearing before Magistrate Pinder on 15 May 2023. That was about one month after the learned primary judge's decision was delivered. Reference needs to be made to the transcript.[96]

[141] The matter was called and appearances announced. The prosecutor appearing was not the one with carriage of the matter as that person was on leave. The Magistrate was endeavouring to establish what the current state of the matter was, and what was to be dealt with that day, having established from the appellant that he elected for trial by jury.[97] The Magistrate then addressed the prosecutor, seeking information as the listing of the committal.[98] Before the prosecutor could answer the appellant interrupted. At that point the Magistrate told the appellant that he

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95 Reasons below at [175]-[178] and [180].
96 AB 37.
97 AB 38 lines 22-41, AB 39 lines 33-44.
98 AB 40 lines 1-12.

would hear from the prosecutor first and that when he wished to hear from the appellant he would be called upon.[99]

[142] The Magistrate continued to question and receive some answers from the prosecutor.[100] His Honour questioned why it was before him for mention: "…why, if that's the case, is it here and not in the committal stream?"[101] Finally, his Honour said:[102]

> "HIS HONOUR: It's got to go back to the committal mention callover with the indication of where the gentleman is at with not electing to have it dealt with summarily, and that's every Wednesday – sorry, no – Mondays. And so – just so that it's clear for the purpose of getting it advanced, whoever will be able to indicate what's happening with it will be – on the next occasion, for when it's here for committal mention, be prepared to advance it."

[143] It is plain from those passages that his Honour concluded that the matter was listed in the wrong place and adjourned it for mention on 29 May 2023:[103]

> "HIS HONOUR: Because there's umpteen pages of endorsements over a long period of time, but it – but it's clear that the defendant does – he needs to elect to have it dealt with summarily. If he doesn't do that, he will proceed on indictment. I don't know how it's taken since March of 2021, but anyway. All right. So it's formally remanded for committal mention, 9 o'clock, 29 May 2023 - - -
>
> DEFENDANT: Can I - - -
>
> HIS HONOUR: - - - in court 20.
>
> DEFENDANT: Do I get a chance to speak or - - -
>
> HIS HONOUR: Bail is enlarged. Your appearance is excused. No, sir. The matter is there. Thanks very much. It's the wrong place."

[144] The appellant seeks to persuade this Court that that involved a denial of procedural fairness. It did not. True it was that the Magistrate did not seek to have submissions from the appellant but that was because he established that as it was listed for mention only, and was listed in the wrong place, it had to be adjourned. There was nothing upon which the appellant needed to be heard. There was no disadvantage to him. He had already told the Magistrate that he did not elect to be dealt with summarily, so his rights were preserved.

Hearing 24 January 2023 – Magistrate Gett

[145] On 24 January 2023 the matter came before Magistrate Gett. The appellant complained that events during that hearing showed the Magistrate acted without giving him procedural fairness.

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99 AB 40 lines 14-38.
100 AB 40 line 38 to AB 41 line 14.
101 AB 40 line 46.
102 AB 41 lines 9-14.
103 AB 41 lines 18-31.

[146] Once again reference needs be made to the transcript of that hearing.[104]

[147] On the hearing Ms Mann, a lawyer from Legal Aid, appeared on behalf of the appellant. It became apparent from the appellant's submissions to this Court that the appellant did not understand that fact. The transcript commences with the Magistrate making an order and Ms Mann responding, including as to the withdrawal of the appellant's previous legal representatives, Hodgson Lawyers:[105]

> "HIS HONOUR: All right. The matter is adjourned to the 21st of February 2022. Mention. Court 20. Nine am. Bail is enlarged. Appearance not required at this stage, if he is legally represented.
>
> SGT HU: Thank you.
>
> MS MANN: Thank you, your Honour. And just confirming Hodgson Lawyers have not been granted leave to withdraw as of yet.
>
> HIS HONOUR: Sorry. Are you seeking for them to - - -
>
> MS MANN: They are seeking - - -
>
> HIS HONOUR: Oh, okay.
>
> MS MANN: - - - leave to withdraw.
>
> HIS HONOUR: Okay. I'm sorry. I misunderstood what you said.
>
> DEFENDANT: Your Honour, can I - can I speak?
>
> HIS HONOUR: I grant Hodgson Lawyers leave to withdraw, so - - - "

[148] At that point the appellant asked to speak but the Magistrate refused, saying he had a lawyer present who had represented him:[106]

> "DEFENDANT: Can I speak, your Honour?
>
> HIS HONOUR: Okay, so that will therefore mean appearance required on the 21st of February. All right. Nothing further?
>
> MS MANN: No, your Honour. Thank you.
>
> HIS HONOUR: All right. Thank you.
>
> DEFENDANT: Your Honour, may I speak?
>
> HIS HONOUR: Well, you have a lawyer. Ms - - -
>
> DEFENDANT: Well, I - - -
>
> HIS HONOUR: - - - Mann is - - -
>
> DEFENDANT: I don't. I - - -
>
> HIS HONOUR: - - - representing you.

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104 Affidavit sworn 26 June 2023, in support of the application to adduce further evidence; Exhibit TK-1.

105 Transcript page 2 lines 1-29.

106 Transcript page 2 lines 24-47.

> DEFENDANT: I wasn't after a lawyer today. I wasn't after representation today.
>
> HIS HONOUR: Well, Ms Mann just represented you."

[149] Before this Court the appellant's confusion as to his legal representation continued. He confirmed that he had dismissed Hodgson lawyers the week before, but he seemed not to be able to comprehend that Legal Aid had appointed Ms Mann to represent him that day.[107] His confusion extended to thinking that it was Ms Mann who was given leave to withdraw.

[150] There is nothing, therefore, in the appellant's assertions that the hearing on 21 January 2023 was unfair in any way.

Hearing 29 May 2023 – Magistrate Gett

[151] The appellant submitted to this Court that this was an aggressive hearing where he asked Magistrate Gett to stand aside because of the Magistrate's conduct of the hearing on 21 January 2023.[108] The transcript must be referred to in order to assess the complaints.[109]

[152] The hearing commenced with the appellant seeking that Magistrate Gett stand aside and describing the previous hearing in this way:[110]

> "DEFENDANT: And I want to go to the library across the road and photocopy and bring over the transcript of our last appearance where it was a shocking display of denial of procedural fairness. You refused to let me speak. I was unrepresented. You never let me speak a word."

[153] The Magistrate pointed out that Ms Mann appeared for the appellant on the previous hearing, but the appellant insisted Ms Mann had been "fired the week before" and he had been unrepresented.[111] It is evident that the appellant's submission was totally wrong given his misunderstanding about the position of Ms Mann. That misunderstanding was repeated later in the same hearing.[112]

[154] The appellant then referred to the prosecutor, Sgt Pearson, and sought that he be "charged from the bench" or referred to the CCC. The Magistrate declined: "Well, I'm not doing that on your say so."[113]

[155] The Magistrate then told the appellant that the court records showed he was represented by Ms Mann at the previous hearing. The appellant continued to dispute that.[114]

[156] The Magistrate then sought assistance from the prosecutor who attempted to explain what he understood was the position, as explained to him by the normal prosecutor, Sgt Colclough. The appellant asked if he could speak after the prosecutor and the

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107 Appeal transcript 1-37 to 1-38.
108 Appeal transcript 1-39 lines 1-13.
109 AB 45.
110 AB 45 lines 18-21.
111 AB 45 lines 37-41.
112 AB 50 lines 21-35.
113 AB 46 lines 1-25.
114 AB 46 lines 33-44.

Magistrate agreed.[115] What then transpired was the appellant seeking to argue that the alleged agreement made on 8 November 2022 meant that the matter had to be adjourned "pending the conclusion of matters in the Supreme Court".[116]

[157] The Magistrate then observed (correctly) that the appellant had spoken a lot, attempted to bring the matter to a head:[117]

> "HIS HONOUR: You seem to have spoken a lot, Mr Karamaroudis.
>
> DEFENDANT: And I haven't finished. I've - I've got some - - -
>
> HIS HONOUR: You will remain quiet while I say the following. Right. One, it doesn't appear you were – it doesn't appear you were self-represented on the 24th of January. Two, if you agree - you seem to be in agreement that this matter should be adjourned pending the Court of Appeal decision, and yet you're standing there upset that it shouldn't - what, you don't want me to hear it to adjourn it pending the - - -
>
> DEFENDANT: I - I - you - you - - -
>
> HIS HONOUR: Just listen carefully.
>
> DEFENDANT: You have no standing to make a decision on the matter.
>
> HIS HONOUR: Just listen carefully, or there'll be consequences. Right? So you don't - even - you say I don't have the power to adjourn it pending your Court of Appeal decision?
>
> DEFENDANT: I - can I speak?
>
> HIS HONOUR: I'm asking you.
>
> DEFENDANT: Yes, you don't have jurisdiction - - -
>
> HIS HONOUR: Right.
>
> DEFENDANT: - - - because you're outgunned by the Chief Magistrate of Queensland.
>
> HIS HONOUR: I'm the Acting Chief Magistrate, Mr Karamaroudis.
>
> DEFENDANT: You've been outgunned by a judge.
>
> HIS HONOUR: Right.
>
> DEFENDANT: There's a judge - - -
>
> HIS HONOUR: Well, I don't accept that.
>
> DEFENDANT: - - - of the District Court who has - - -
>
> HIS HONOUR: I don't accept it.
>
> DEFENDANT: - - - outgunned you, has made an - - -

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115 AB 47.
116 AB 47-50.
117 AB 51 line 7 to AB 52 line 8.

HIS HONOUR: I don't accept that. I will - - -

DEFENDANT: - - - agreement to - - -"

[158] The appellant's approach, as can be seen from that passage, was to wrongly urge the existence of the alleged agreement of 8 November 2022, wrongly assert he was unrepresented on the previous hearing and therefore wrongly take offence at the Magistrate's conduct, and to make ignorant assertions about the entitlement of a judge to control process. The ignorant and offensive nature of the appellant's submissions and attitude is demonstrated by the next exchange when the Magistrate adjourned the matter till after lunch:[118]

"HIS HONOUR: We'll see you back at 2.30.

DEFENDANT: I've got some other submissions. I don't want to be cut off when I come back. Okay. Thank you.

HIS HONOUR: No. You don't control the court, Mr Karamaroudis.

DEFENDANT: I control it today.

HIS HONOUR: I control this court, understand?

DEFENDANT: There is no court today. You're outgunned."

[159] There was nothing in the conduct of that hearing that could remotely be said to show unfairness to the appellant. The appellant's submissions and approach generally were infected by: (i) a completely incorrect view of the position at the previous hearing, (ii) his completely incorrect view that he had been dealt with unfairly at the previous hearing, (iii) his misplaced view that some form of binding agreement had been made which deprived the court of power to deal with the matter otherwise than as he wished, and (iv) his ignorant ideas about judges being "outgunned".

Hearing 29 May 2023 – Magistrate Nolan

[160] When the hearing on 29 May 2023 resumed it was before Magistrate Nolan, not Magistrate Gett. Reference needs to be made to the transcript.[119]

[161] The appellant's contentions before this Court (on the application to adduce further evidence) concerned his objection to the presence of Sgt Pearson in the courtroom when the appellant was asserting he was corrupt, and the appellant's inability to lead evidence of Sgt Pearson's alleged misconduct.

[162] The transcript reveals that the appellant urged that the matter had to be adjourned, and that is what happened. The Magistrate refused to permit evidence to be lead in respect of the allegations, saying:[120]

"HIS HONOUR: Well, just before you go on. They're very serious allegations. They aren't - - -

DEFENDANT: Well, you might want to have a look.

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118 AB 52 lines 34-45.
119 AB 55.
120 AB 56 lines 31-43.

> HIS HONOUR: They aren't before me.
>
> DEFENDANT: May I lead you to the affidavit, your Honour?
>
> HIS HONOUR: No. What I'm going to do is this. Magistrate Previtera is seized of this matter, so I'm simply going to adjourn it before her today where you can take up each of the arguments that you want to pursue, and that will be on the 31st of August in court 18."

[163] The Magistrate was dealing with a mention where the appellant and the prosecutor agreed that it had to be adjourned. There was no occasion to have any sort of hearing, let alone a full hearing, of the appellant's allegations, nor to do as the appellant asked, that is refer the matter to the CCC.[121]

[164] There is nothing whatever in that hearing that was unfair to the appellant.

Chief Magistrate's letter 13 June 2023

[165] The appellant referred to a letter from the Chief Magistrate, dated 13 June 2023,[122] as part of the evidence he sought to adduce on the appeal.

[166] The letter dealt with the appellant's complaints about his treatment in the hearings dated; (i) 15 May 2023, Magistrate Pinder; (ii) 24 January 2023, Magistrate Gett; and (iii) 29 May 2023, Magistrate Gett and Magistrate Nolan. Her Honour expressed the view that the magistrates acted appropriately and without bias. Notably the Chief Magistrate had listened to the audio of the hearings on 15 May 2023 and 29 May 2023.

[167] Her Honour's conclusion in respect of each hearing accords with the view of this Court, as explained above. There is no legitimate basis for complaint about her Honour's letter.

[168] Nor can there be any legitimate basis for complaint as to her Honour's pointing out that the appropriate person to deal with complaints about Police Officers was the Commissioner of Police, not the Chief Magistrate. That is undoubtedly correct.

[169] There is nothing in the appellant's complaints about this letter.

Bias and apprehended bias – Magistrate Previtera

[170] The appellant challenged the findings of the learned primary judge on the issue of bias or apprehended bias on the part of Magistrate Previtera.

[171] This issue may be dealt with shortly.

[172] In so far as the challenge was based on errors of fact said to have been made by the learned primary judge, there is no basis for the challenge. The alleged errors relate to the conduct of Magistrate Previtera at various hearings, all of which have been dealt with earlier in these reasons. No basis for criticism has been found to exist. The appellant's concerns are misplaced. The Magistrate has dealt with the appellant fairly and moderately considering the way in which the appellant has conducted himself in those hearings.

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121 AB 57 lines 10-18.

122 AB 60.

[173] There is no credible suggestion that the learned primary judge erred in identifying the relevant legal principles concerning allegations of bias and apprehended bias. Nor is there any credible suggestion that those principles were misapplied.

[174] The attack on the learned primary judge's reasons in this regard goes so far as to allege that the learned primary judge herself had "demonstrated actual bias, or corrupt conduct in that by doing so Justice Wilson has symbiotically protected Magistrate Previtera in a mere continuation of judicial protection demonstrated by magistrate Previtera".[123] This, again, is an example of the appellant's conduct to which we have referred in paragraphs [13] to [17] above.

[175] We have examined the transcript of the hearing before the learned primary judge with particular care given the nature of the allegations made. Nothing in the transcript of the hearing before the learned primary judge, or in her Honour's reasons, justifies that attack. It is a wholly unfounded and an outrageous slur on a judicial officer, and the courts more broadly. Not only does it not advance the appellant's case, it demonstrates that the appellant's propensity to cast unfounded slurs on the judicial system generally, and on those judicial officers whom he perceives to have made findings against him.

[176] In our respectful view, the learned primary judge was entirely correct in her analysis of the issue of bias and apprehended bias on the part of Magistrate Previtera.

[177] Our analysis of the transcript of the hearings shows that Magistrate Previtera has approached the issues raised by and concerning the appellant with objectivity and fairness. As with any court hearing, the judge is entitled to test submissions and seek to guide the advocate to areas that are of legitimate concern, and to dissuade the advocate from spending time on issues of no moment or little weight. That does not mean there is any case to suggest relevant bias.

[178] The established test so far as apprehended bias is concerned is the objective test of whether a fair-minded lay observer might reasonably apprehend that the judge might not bring an impartial and unprejudiced mind to the resolution of the question the judge is required to decide.[124]

[179] In *Charisteas v Charisteas*[125] the High Court reiterated the test:

> "11 Where, as here, a question arises as to the independence or impartiality of a judge, the applicable principles are well established, and they were not in dispute. The apprehension of bias principle is that "a judge is disqualified if a fair-minded lay observer might reasonably apprehend that the judge might not bring an impartial mind to the resolution of the question the judge is required to decide". The principle gives effect to the requirement that justice should both be done and be seen to be done, reflecting a requirement fundamental

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123 Appellant's outline paragraph 60, 62.

124 *Livesey v New South Wales Bar Association* (1983) 151 CLR 288; *Johnson v Johnson* (2000) 201 CLR 488; *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337; *British American Tobacco Australia Services Ltd v Laurie* (2011) 242 CLR 283; *Michael Wilson & Partners Ltd v Nicholls* (2011) 244 CLR 427.

125 (2021) 273 CLR 289; [2021] HCA 29, at [11]. Internal footnotes omitted.

> to the common law system of adversarial trial – that it is conducted by an independent and impartial tribunal. Its application requires two steps: first, "it requires the identification of what it is said might lead a judge ... to decide a case other than on its legal and factual merits"; and, second, there must be articulated a "logical connection" between that matter and the feared departure from the judge deciding the case on its merits. Once those two steps are taken, the reasonableness of the asserted apprehension of bias can then ultimately be assessed."

[180] *Charisteas* also emphasised that the imputed knowledge of the fair-minded lay observer included the ability to consider the reasonableness of any suggested apprehension of bias in the context of ordinary judicial practice:[126]

> "12 As five judges of this Court said in *Johnson v Johnson*, while the fair-minded lay observer "is not to be assumed to have a detailed knowledge of the law, or of the character or ability of a particular judge, the reasonableness of any suggested apprehension of bias is to be considered in the context of ordinary judicial practice".
>
> 13 Ordinary judicial practice, or what might be described in this context as the most basic of judicial practice, was relevantly and clearly stated by Gibbs CJ and Mason J in *Re JRL; Ex parte CJL* in 1986 by adopting what was said by McInerney J in *R v Magistrates' Court at Lilydale; Ex parte Ciccone* in 1972:
>
> > "The sound instinct of the legal profession – judges and practitioners alike – has always been that, save in the most exceptional cases, there should be no communication or association between the judge and one of the parties (or the legal advisers or witnesses of such a party), otherwise than in the presence of or with the previous knowledge and consent of the other party. Once the case is under way, or about to get under way, the judicial officer keeps aloof from the parties (and from their legal advisers and witnesses) and neither he nor they should so act as to expose the judicial officer to a suspicion of having had communications with one party behind the back of or without the previous knowledge and consent of the other party. For if something is done which affords a reasonable basis for such suspicion, confidence in the impartiality of the judicial officer is undermined.""

[181] In *Parbery & Ors v QNI Metals Pty Ltd & Ors*,[127] Bond J neatly summarised the relevant test and its application:

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126 *Charisteas* at [12]-[13]. Internal footnotes omitted.

127 [2018] QSC 213 at [31]-[32]. Internal footnotes omitted. Emphasis in original.

> "[31] The application of the test uses the touchstone of the "fair-minded lay observer" and that person's reasonable apprehension. The law contemplates the following in the application of that test:
>
> (a) The fair-minded lay observer has attributed to him or her awareness of and a fair understanding of the nature of the decision, the context in which it was made, and the circumstances leading up to the decision.
>
> (b) The fair-minded lay observer has attributed to him or her knowledge that the judge is a professional lawyer, whose training, tradition and oath or affirmation require him or her to discard the irrelevant, the immaterial and the prejudicial, with the result that a conclusion that there is a reasonable apprehension that the judge might be biased should not be drawn lightly. The observer does not have attributed to him or her knowledge of the character or the ability of the particular judge concerned.
>
> (c) The fair-minded lay observer does not have attributed to him or her a detailed knowledge of the law, but the reasonableness of any suggested apprehension of bias is to be considered in the context of ordinary judicial practice, taking into account the exigencies of modern litigation.
>
> [32] What is required for justice to be seen to be done is that it must be apparent to the fair-minded lay observer that the judge will bring to the resolution of the issues an impartial and unprejudiced mind which will decide the issues according to their factual and legal merits. If such an observer **might** reasonably apprehend that the judge **might** not do that, then a case of apprehended bias is established. But if the possibility of such a reasonable apprehension does not exist, it will not suffice that there might be a reasonable apprehension that the judge will decide an issue or issues adversely to one party."

[182] By contrast, actual bias requires proof that the judge in fact approached the issues with a closed mind or had prejudged them such that the judge was "so committed to a conclusion already formed as to be incapable of alteration, whatever evidence or arguments may be presented".[128]

[183] The relevant principles were set out by the New South Wales Court of Appeal in *Reid v Commercial Club (Albury) Ltd*:[129]

> "68 A finding of actual bias is a grave matter. Authority requires that an allegation of actual bias must be distinctly made and clearly proved; that such a finding should not be made lightly; and that cogent evidence is required.

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128 *Minister for Immigration and Multicultural Affairs v Jia Legeng* (2001) 205 CLR 507 at [72].

129 [2014] NSWCA 98 at [68]-[73]. Internal footnotes omitted.

69 Where the issue is actual bias in the form of prejudgment, the appellant had to establish that the primary judge was "so committed to a conclusion already formed as to be incapable of alteration, whatever evidence or arguments may be presented": *Minister for Immigration and Multicultural Affairs v Jia Legeng*.

70 As Gleeson CJ and Gummow J observed in that case at [71]:

> "The question is not whether a decision-maker's mind is blank; it is whether it is open to persuasion."

71 In the same case, Hayne J noted at [185] the several distinct elements underlying the assertion that a decision-maker has prejudged or will prejudge an issue, or the assertion that there is a real likelihood that a reasonable observer might reach that conclusion. The first is the contention that the decision-maker has an opinion on a relevant aspect of the matter in issue in the particular case. The second is the contention that the decision-maker will apply that opinion to the matter in issue. The third is the contention that a decision-maker will do so without giving the matter fresh consideration in light of whatever may be the facts and arguments relevant to the particular case.

72 His Honour observed at [186] that allegations of actual bias through prejudgment often fail at the third step he had identified. This was because notwithstanding whatever expression of preconceived opinions by the decision-maker, it does not follow that the evidence will be disregarded.

73 The test of actual bias in the form of prejudgment requires an assessment of the state of mind of the judge in question. However, actual bias need not be confined to an intentional state of mind. Bias may be subconscious, provided it is real. As Finkelstein J said in *Bilgin v Minister* at 290:

> "The wrong involved is the failure to decide a case impartially. Whether that failure was deliberate or not should be beside the point insofar as the validity of the decision is concerned."

[184] The current point is concerned only with the position of Magistrate Previtera. Whilst assertions of bias in both aspects have routinely been bandied about with respect to other Magistrates, it is the part-heard application by Magistrate Previtera that is at the heart of the current dispute.

[185] Our review of the hearing (as to which see paragraphs [118] to [139] above) reveals no basis for concluding that there was bias, either actual or apprehended.

[186] The appellant was allowed to develop his submissions as far as they could legitimately go, with the Magistrate testing the evidential foundation for what was being submitted. The Magistrate explained why the focus was on the recordings that concerned SCon Barker, given that the prosecutor had already accepted that certain questions could be asked of that witness in cross-examination. The Magistrate also explained that her Honour would be proceeding expressly on the

basis that the appellant had established the discrepancy between the bail affidavit and the CCTV footage. Even in the face of testing conduct by the appellant the Magistrate showed remarkable patience

[187] In our view, the appellant's submissions do not reach the point of satisfying the two step approach applicable to assessment of apprehended bias. First, it requires the identification of what it is said might lead a judge to decide a case other than on its legal and factual merits. That has not been done here. Secondly, there must be articulated a logical connection between that matter and the feared departure from the judge deciding the case on its merits. That also has not been demonstrated. To the contrary, the hearing shows the Magistrate's adherence to conducting a fair hearing while testing propositions and evidence.

[188] In the case of the learned primary judge, the position is even stronger. Close consideration of the transcript of that hearing shows that her Honour spent two days permitting the appellant to develop his submissions at length and in considerable detail. That hearing permits no rational conclusion that there was bias of either kind. Indeed, though it is not determinative, at the end of the hearing the appellant praised the learned primary judge thus:[130]

> "APPLICANT: I want to thank the court sincerely for the manner in which this proceeding was conducted and the fairness which was extended to me. I'm very appreciative of it, and I thank you."

[189] We pause to note that the consideration of the transcripts leading to that hearing do not remotely support a finding that Magistrate Previtera demonstrated actual or apprehended bias. In so far as those hearings were on mention days, the fair-minded lay observer is attributed with knowledge of how a court might conduct such hearings. That eliminates any credible suggestion of bias.

[190] As to the repeated assertion of actual bias, little need be said. There is no credible case that either Magistrate Previtera or the learned primary judge approached the issues with a closed mind or had prejudged them such that the judge was "so committed to a conclusion already formed as to be incapable of alteration, whatever evidence or arguments may be presented". The contrary is the case.

[191] We respectfully find no error in the reasons of the learned primary judge on this aspect of the case. Her Honour's reasons are, respectfully, compelling:[131]

> "[206] This matter is still part heard before Magistrate Previtera and the applicant is still working through the issues and presenting his case. There has been no determination in relation to applicant's application to cross-examination the three witnesses.
>
> [207] The applicant states that Magistrate Previtera has demonstrated apprehended or actual bias against him. This characterisation of the magistrate's conduct is demonstrated by the applicant's view that the magistrate is in a symbiotic relationship with the police or that she is part of an organised campaign of prejudice

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130 AB 721 line 15.

131 Reasons below at [206]-[219]. Internal footnotes omitted.

conducted by the Brisbane Magistrates Court. There is no evidence of any of this.

[208] As Bond J stated in *Parbery & Ors v QNI Metals Pty Ltd & Ors*:

> "What is required for justice to be seen to be done is that it must be apparent to the fair-minded lay observer that the judge will bring to the resolution of the issues an impartial and unprejudiced mind which will decide the issues according to their factual and legal merits. If such an observer might reasonably apprehend that the judge might not do that, then a case of apprehended bias is established. But if the possibility of such a reasonable apprehension does not exist, it will not suffice that there might be a reasonable apprehension that the judge **will** decide an issue or issues adversely to one party." (citation omitted)

[209] The test is expressed in terms of a reasonable apprehension that the judge might not bring an impartial and unprejudiced mind. However, it is clear that the law requires that proposition to be "firmly established" before a judge or magistrate should be disqualified.

[210] I have considered the applicant's array of complaints about Magistrate Previtera in light of the two step process required for apprehended bias:

(a) first, "it requires the identification of what it is said might lead a judge ... to decide a case other than on its legal and factual merits"; and

(b) second, there must be articulated a "logical connection" between that matter and the feared departure from the judge deciding the case on its merits.

[211] In doing so, I have concluded that the applicant's asserted apprehension of bias is unreasonable and unfounded in the circumstances. In my view there is no logical connection between the many complaints raised by the applicant about the magistrate and the feared departure from the magistrate deciding the application to cross-examine witnesses on its merits.

[212] Considering the issues raised by the applicant, either individually or cumulatively, they would not cause a fair-minded lay observer to reasonably suspect that the learned magistrate did not approach the application for leave to cross-examine hearing with objectivity and detachment and without any element of pre-judgement.

[213] I am not satisfied that anything the applicant has raised might lead the magistrate to decide the question otherwise than on its legal and factual matters. I have considered whether a fair

> minded lay observer might reasonably apprehend that the magistrate might not bring an impartial mind to the resolution of whether there are substantial reasons, and why, in the interests of justice, witnesses should be made available for cross-examination on the topics set out by the applicant. I am not so satisfied.
>
> [214] In relation to actual bias, such a finding is a grave matter. Cogent evidence is required, and an allegation of actual bias must be distinctly made and clearly proven.
>
> [215] In this case, the applicant has not satisfied me that the magistrate was "so committed to a conclusion already formed as to be incapable of alteration, whatever evidence or arguments may be presented".
>
> [216] This matter is still part heard before Magistrate Previtera and the applicant is still working through the issues and presenting his case. There has been no determination in relation to applicant's application to cross-examination the three witnesses.
>
> [217] I note that there have been occasions where the magistrate has disagreed with the applicant's submissions, ruled against him, and become frustrated with his conduct; none of which amounts to apprehended or actual bias.
>
> [218] Indeed, in the circumstances, Magistrate Previtera has treated the applicant fairly and with patience in trying to keep the proceedings on track, as to the matters that are required to be determined, for each application.
>
> [219] The applicant has not satisfied me that the magistrate was biased, whether that be apprehended bias or actual bias."

[192] This ground fails.

Contact with the registry

[193] The appellant challenged the reason of the learned primary judge in so far as they dealt with his allegations that the Magistrates Court Registry thwarted his efforts to get a copy of the orders made by Magistrate Coates on 7 March 2022. He contended that the Registry's response (or lack of it, as he would have it) revealed a conspiracy to deprive him of those orders.

[194] The learned primary judge reviewed the contact between the appellant and the Registry, and concluded that:[132]

> "[71] At worst, there appears to have been some confusion which does not amount to a plan by the entire Magistrates Court to deprive the applicant of procedural fairness. I have seen nothing to elevate anything to this egregious level."

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132 Reasons below at [71].

[195] The appellant devoted only one paragraph of his outline to this issue:[133]

> "18. By judging the evidence presented and submissions made outlining a conspiracy by the registry of the Brisbane magistrates court to deprive the appellant of orders or directions made by magistrate Coates as 'some confusion', Justice Wilson made significant error of fact or further demonstrated actual bias or corrupt conduct and can be seen as more evidence of symbiotically protecting the magistrates of the Brisbane magistrates court, and the Brisbane magistrates court itself."

[196] Nothing was said in oral address to identify the alleged errors of fact, nor to identify the basis for the alleged bias.

[197] In the circumstances, there is no reason to doubt the accuracy of what the learned primary judge set out as a summary of the contacts, having listened to the phone calls.[134]

[198] Nor is there any reason to doubt the accuracy of her Honour's summary of the appellant's contentions:[135]

> "[67] The applicant submits that the registry lied to him in their email dated 11 March 2022, as they should have said that there was an order that he had to make applications by 28 March 2022.
>
> [68] The applicant also states this is relevant as he was in the middle of disclosure, and not being able to make any more applications prejudiced him.
>
> [69] The applicant submits that the recorded phone calls and emails demonstrate a "coordinated, well-disciplined and successfully executed plan by the entire Brisbane Magistrates Court of depriving me of procedural fairness on a total scale".

[199] That being the case, it cannot be demonstrated that in her Honour's finding that there was confusion rather than a concerted campaign of deceit, was not open.

[200] There is reason to think her Honour's finding was correct. The appellant was present on 7 March 2022 when the Magistrate announced two things: (i) any application had to be filed by 28 March 2022 and (ii) the adjourned date was 11 April 2022, in Court 19 at 9 am.[136]

[201] This ground fails.

Other subsidiary grounds

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133 Appellant's outline paragraph 18.
134 Reasons below at [59]-[62] and [66].
135 Reasons below at [67]-[69].
136 AB 285. See also AB 282 as to the date for applications to be filed.

[202] The appellant listed a number of other quite minor complaints.[137] There is no need to separately deal with them as they are either within the scope of grounds already dealt with, or rise no higher than those we have dealt with above.

Disposition of the appeal, the application to adduce further evidence, and costs

[203] Our consideration of the further evidence sought to be adduced reveals that there is nothing in it that would have materially altered the position before the learned primary judge, nor would it add anything relevant to the appeal grounds. That application should be dismissed. There is no reason why costs should not follow the event.

[204] All grounds advanced in support of the appeal have failed. The appeal must be dismissed.

[205] There is, again, no reason why costs should not follow the event. The appellant submitted that his case was extraordinary and it was a clear public interest litigation, and therefore he should not pay the costs. In that regards he relied upon *Oshlack v Richmond River Council*[138] and its consideration of public interest litigation. The appellant put his case on the basis that the public interest in exposing and curing judicial and police corruption meant that even if he was unsuccessful he should not pay the costs. The extraordinary aspect was, in his submission, based on the same considerations, namely that he was being prosecuted by corrupt police who in turn were being shielded by corrupt judicial system.

[206] As we have endeavoured to explain, there is nothing in the appellant's assertions. There is no basis to depart from the usual order that costs follow the event.

[207] The Second, Third and Fourth Respondents do not seek an order for costs in their favour.[139]

Application for an interlocutory injunction

[208] Subsequent to the appeal being heard, the appellant applied for injunctive relief. The orders sought are that:

(a) the Magistrates Court be prevented from proceeding with the committal "until a date at least four weeks after proceedings associated with Supreme Court matter BS 13401/22 are finalised"; and

(b) the hearing listed for 21 November 2023 in the Magistrates Court be delisted.

[209] The proceedings in BS 13401/22 are the subject matter of this appeal. As oral argument developed it became apparent that what the appellant seeks is that an order be made restraining the committal from proceeding until, assuming the appeal is dismissed, he had had time to lodge an application for special leave to appeal in the High Court. The appellant argues that the Supreme Court proceedings in BS 13401/22 have not been finalised because the appeal to this Court is on foot, and they will not be finalised until any High Court appeal has been heard.

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137 For example, appellant's appeal outline, paragraphs 41-45, 70-73 and 83-85.
138 (1998) 193 CLR 72, [1998] HCA 11.
139 Second, Third and Fourth Respondents' outline paragraph 4.

[210] The hearing listed for 21 November 2023 is the resumption of the part-heard application to cross-examine witnesses at the committal.

[211] The contentions advanced by the appellant largely mirrored those advanced on the appeal. At least to that extent there is no need to repeat them. The appeal has failed and those contentions do not provide any basis upon which injunctive relief would be granted.

[212] The appellant relied upon:[140]

(a) the exceptional circumstances of the matter;

(b) his "excellent prospects of success" in the appeal;

(c) the balance of convenience favoured the grant of relief;

(d) an undertaking made by the respondents at the Supreme Court on 8 November 2022;

(e) a commitment made by Magistrate Previtera to the court and the parties on 10 November 2022;

(f) considerations by the court on behalf of the public interest; and

(g) the rule of law.

[213] As to (a) and (b) above, what has been said earlier in these reasons is sufficient to demonstrate that the appellant's case does not gain traction from these factors.

[214] Sub-paragraphs (d) and (e) may be considered together. They have their origin in an agreement which the appellant says was made on 8 November 2022.

Agreement made on 8 November 2022?

[215] The evidence of the agreement said to have been made on 8 November 2022 comes from the transcript of that hearing in the applications jurisdiction of the Supreme Court. The matter came on first at a callover and was stood down. When it resumed there were appearances by the appellant, Counsel for the respondent Magistrates (Mr Nevard), and the Queensland Police Service representative, Ms Donkin.

[216] Ms Donkin said that there had been an agreement reached between the parties that the application should be adjourned by consent to 24 November.[141]

[217] Then, after discussing what time was required on the adjourned day, Ms Donkin added:[142]

> "MS DONKIN: Correct, your Honour. And for completeness' sake, I would just like to bring to the court's awareness that there is actually a part-committal hearing which had been set down for the 10th of November in the Magistrates Court, and **it's proposed in terms of dealing … with that that there be an application for an**

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140 Application outline paragraph 1.2.
141 Transcript 1-2 lines 33-36.
142 Transcript 1-3 lines 25-41. Emphasis added.

adjournment in that matter until such time as these proceedings are finalised.

HIS HONOUR: And that'll be an application in the Magistrates Court.

MS DONKIN: Correct, your Honour.

HIS HONOUR: Yes.

MS DONKIN: It's just for your completeness in terms of----

HIS HONOUR: Thanks.

MS DONKIN:----awareness. Thank you."

[218] The appellant then addressed the judge in relation to the incomplete committal proceedings:[143]

"APPLICANT: Your Honour, I am concerned – one small thing. I just had the discussions with … the QPS representative, in relation to the staying – the temporary staying of the committal proceeding in the lower court. We've agreed that that's going to be part of this deal by consent. I'm just a bit worried about how that will be facilitated in terms of – do I go there? Do I - can I receive something from the court to show – that lead the inferior court that that matter's … that has been stayed – that that listed date for the 10th has been - - -

HIS HONOUR: Well, I don't know that it's stayed. It's just that - **the idea is that it's going to be adjourned, isn't it? Right?**

MS DONKIN: Correct, your Honour. Yes.

APPLICANT: But I'm - I'm - - -

HIS HONOUR: And that'll be an order made by that court.

APPLICANT: But I'm concerned that I don't – I won't leave this court with any information of that or any proof of it. … I could, for all intensive purposes, go to the court on Thursday and be forced to be subjected to whatever it is I've been complaining I've been subjected to without any formal notification from this court that it's to be adjourned.

HIS HONOUR: Well – all right. There presumably is something – there's some order or summons or instrument that requires – that lists the matter from the 10th of November; is that right? There's currently something listed - - -

APPLICANT: There is some - - -

HIS HONOUR: - - - and something on the 10th of November.

APPLICANT: There is something listed for that date.

HIS HONOUR: And **that's an order that everybody has to comply with. Now, unless the court – that court – makes another order,**

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143 Transcript 1-4 lines 1-38. Emphasis added.

> **say, adjourning that date and makes it today, then someone'll have to turn up in court and get an adjournment of that hearing**."

[219] After having asked the judge whether the Supreme Court could order the vacating of the date in the Magistrate's Court, and having been told that it could not, the appellant then said:[144]

> "APPLICANT: But my deal with the parties today – I made a deal with them by consent, and … if there is going to be no assurance – written assurance that that hearing date is off, I'd like to go through with this matter today.
>
> HIS HONOUR: Well, you can't get an assurance that the other matter's off, because the adjournment of that is a matter for that court."

[220] The appellant them submitted that unless there was an assurance that the committal hearing date would be vacated he wished to proceed with the application in the Supreme Court. He added that he had "agreed conditionally to an adjournment", at which point Ms Donkin said:[145]

> "MS DONKIN: Which is what we intend to do. … I have communicated that with the applicant, and **that is certainly the path that we will proceed with. I cannot speak for the magistrate's decision, although I don't anticipate that it's likely that an adjournment would not be granted.**
>
> HIS HONOUR: Yes.
>
> MS DONKIN: And I say that for the benefit of the applicant."

[221] It was at this point that Counsel for the respondent Magistrates prosed to say something:[146]

> "MR NEVARD: Your Honour, perhaps I should briefly say something on the matter.
>
> ….
>
> MR NEVARD: I hesitate to rise. As your Honour would appreciate, I'm instructed for three members of the magistracy, including the chief magistrate. And so the position, ultimately, that my clients will be taking in this matter is consistent with the Hardiman principle.
>
> HIS HONOUR: Yes.
>
> MR NEVARD; Which is that they will abide the orders of the court, and they do intend to seek some small exceptions to that on the issue of costs, and there's also a separate issue, unrelated to final orders, where there's been some agitation about the court's power to make a referral to various bodies, and we may, jurisdictionally only, seek

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144 Transcript 1-5 lines 29-34.
145 Transcript 1-6 lines 1-8. Emphasis added.
146 Transcript 1-8 lines 12-32. Emphasis added.

> to be heard on that. **But your Honour would appreciate that I am not in any position to give any sorts of guarantees** … or comment on the merits on my client's part."

[222] The appellant continued to make submissions including an application that the judge "formally stand aside from this matter", which lead to the judge saying:[147]

> "HIS HONOUR: Could you be quiet for a minute? Thank you. **What I understand the position to be is that the prosecution have agreed to an adjournment of the hearing for 10 November 2022 and they will ask the Magistrates Court to adjourn that hearing by consent.**
>
> APPLICANT: Okay.
>
> HIS HONOUR: Now, in those circumstances, I would not make an order directing another court to adjourn something."

[223] The appellant contends that it is evident from the transcript that Counsel for the respondent magistrates was a party to the agreement to vacate the hearing date for the committal.[148] That point was at the forefront of his oral submissions.

[224] A fair reading of those exchanges compels the conclusion that there was no such agreement by Counsel for the Crown. It is, in our view, plain that whilst the QPS representative agreed to seek an adjournment of the committal hearing, that was something ultimately for the Magistrates Court to consider when that was sought. Of course, as the QPS representative said, there was an expectation that if the parties consented to the requested adjournment it was likely to be granted, but there is no rational suggestion that the Magistrate respondents bound themselves to do so. In fact, Counsel for the Magistrates made that clear when he said that he was "not in any position to give any sorts of guarantees".

Breach of the agreement on 10 November 2022?

[225] The appellant contends that the agreement to adjourn was breached by Magistrate Previtera on 10 November 2022. The finding above means that contention fails.

[226] As it transpires, when the appellant asserted that such an agreement had been made on Magistrate Previera's behalf, her Honour dispelled that notion repeatedly.[149] It is evident that her Honour's understanding, confirmed by the QPS representative on that day, was that the appellant and the QPS had agreed that the QPS would consent to an adjournment, but that it was a matter for the court to decide on the day.

[227] In any event, the appellant sought and was granted an adjournment that day.

[228] Nothing in the events to this point could give any basis upon which to conclude that Magistrate Previtera would not be able to bring an independent mind to the matter when it resumed.

Hearing on 9 December 2022

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147 Transcript 1-11 lines 23-31. Emphasis added.

148 Application outline paragraph 2.1.

149 The transcript is Exhibit TK-2 to the appellant's affidavit sworn 26 September 2023. Transcript 1-2 lines 42-49; 1-5 lines 9-12; 1-6 lines 16-34; 1-7 lines 15-27.

[229] The appellant contended that at this hearing Magistrate Previtera abided the agreement or her Honour's commitment.[150] He goes further, suggesting that because the Magistrate did not seek a response from the police prosecutor as to the adjournment of the matter that day, "it appears that Magistrate Previtera was representing the Queensland Police Service".

[230] The transcript does not support either proposition.[151] The entirety of the transcript occupies less than 25 lines. The relevant part is as follows:[152]

> "PROSECUTOR: Your Honour, would your Honour like to proceed with the adjournments for unrepresented people now?
>
> HER HONOUR: Yes please.
>
> PROSECUTOR: Is there anyone that's seeking an adjournment today? I did ask earlier.
>
> DEFENDANT: I think there's - in my matter, I think there will be an adjournment order.
>
> HER HONOUR: Mr Karamaroudis is here. Okay. All right. Come forward, Mr Karamaroudis, that has to be adjourned. And I will adjourn it to - - -
>
> PROSECUTOR: Your Honour, I do hold instructions. If your Honour was minded to adjourn it to the 17th or 19th of January.
>
> HER HONOUR: Yes. Yes, I can do that. I will note your appearance, Mr Karamaroudis, and I will adjourn it to the 17th of January, back in this court for mention …"

[231] All that signifies is that the Magistrate treated it as a consent adjournment, that is, by consent as between the appellant and the prosecutor. The Magistrate had a response from the prosecutor, in that it was the prosecutor who invited the appellant to seek an adjournment and it was the prosecutor who told the Magistrate, in respect of the requested adjournment, that "I do hold instructions". There is no foundation for the gratuitous slur cast by the appellant in paragraph 5(i) of his outline.

Breach of the agreement on 31 August 2023?

[232] The appellant contended that the agreement to adjourn was breached again by Magistrate Previtera at a hearing on 31 August 2023. The finding made above, that there was no such agreement, means this contention must fail.

[233] However, reference may be made to the transcript[153] to better understand the difficulty with the appellant's contention that there was some breach of an agreement that day.

[234] On that day the matter was on for mention. The Magistrate at first wrongly thought it was for the resumption of the part-heard application to cross-examine witnesses

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150 Appellant's application outline paragraph 5.
151 Exhibit TK-3 to the appellant's affidavit sworn 26 September 2023.
152 Transcript 1-2 lines 1-19.
153 Exhibit TK-4 to the appellant's affidavit sworn 26 September 2023.

but corrected that impression early in the hearing.[154] By 31 August 2023 the decision of the learned primary judge had been delivered.

[235] The appellant said the mention could not proceed and when he explained it was because of the agreement he alleged, the Magistrate disavowed any such agreement:[155]

> "DEFENDANT: Well, … there is an agreement that was made by a counsellor representing you, counsellor representing a Judge of the District Court … and counsel representing – well, either a solicitor counsel representing Mr Colclough for the QPS, and it's well documented; that agreement is well document in this court. I refer your Honour to the submission - - -
>
> HER HONOUR: There is no such agreement - - -
>
> DEFENDANT: Your Honour, can I - - -
>
> HER HONOUR: - - -Mr Karamaroudis."

[236] As submissions progressed it became apparent that the appellant was contending that the agreement went further than simply adjourning the matter on 10 November and extended beyond the finalisation of the matter at first instance by the decision of the learned primary judge:[156]

> "HER HONOUR: That won't be necessary. I've got the decision of Justice Wilson here.
>
> DEFENDANT: Which is not finalised. So your legal representative – I now refer you to the submission of the 12th of May 2023 to paragraph 3, where **Mr Colclough's effective counsel or solicitor representing him in a higher court outlined an agreement between the QPS, your counsel, and the counsel representing the District Judge of the – a court – a Judge of the District Court, outlined an agreement between those parties for an adjournment until that matter as such time as these proceedings are finalised**. Those proceedings are not finalised because they're under an appeal. There is an appeal hearing tomorrow in relation to that matter. It's black and white. You've agreed in person by your own comments, as evidenced by … the transcript."

[237] The reference to the Magistrate's "own comments" are a reference to what was said by the Magistrate at the hearing on 10 November when her Honour explained why the adjournment was being granted:[157]

> "HER HONOUR: Absolutely. So I'm just making it clear that I'm not granting the adjournment because someone on my behalf who is not a judicial officer has said I would consent, when they haven't spoken to me. I'm granting the adjournment because it would not be appropriate for me to continue when there are proceedings involving me in a higher court to be heard on the 24th of November. **Because if**

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154 Transcript 1-4 line 47 to 1-5 line 27.
155 Transcript 1-2 lines 24-34.
156 Transcript 1-2 lines 4-16. Emphasis added.
157 Transcript 1-7 lines 25-40. Emphasis added.

> **that court decides, as you've sought, that I am prejudiced, then to proceed today would be a waste of everybody's time and would quite frankly be nonsensical. So I take into account that there's a consent for an adjournment. I could rule against that, but that would be a nonsense if I ruled against it, because what if the court on the 24th of November makes a ruling that I am indeed biased, and I shouldn't sit further on the matter.** So that's what I'm going to do, and that's the reasons … why I'm going to do it. Not because someone else has said I should, when they have no power to bind me."

[238] As the Magistrate pointed out to the appellant on 31 August 2023, events had superseded what was said on 10 November 2022, when the application was adjourned, because the decision of the learned primary judge had been delivered.[158]

[239] The appellant continued to press for a chance to make submissions about the alleged agreement but the Magistrate reminded him that the matter was on merely for mention.[159]

[240] The appellant's contention (before the Magistrate on 31 August 2023 and before this Court) was that the agreement reached on 8 November 2022 was that the committal proceedings would be adjourned until the proceedings in the Supreme Court were finalised, by which he meant the finalisation of any appeals, even to the High Court.

[241] We pause to note that his contention that day seems inconsistent with what was said to Magistrate Pinder on 15 May 2023, where the appellant confined it to "the conclusion of matters in the Supreme Court":[160]

> "There is an arrangement between the counsel representing Chief Magistrate Brassington, counsel representing Magistrate Previtera and counsel representing Magistrate Coates. There is an – an agreement with their counsel that these proceedings would be adjourned by consent **until the conclusion of matters in the Supreme Court**, and I've filed all the relevant material, comments and transcripts where those were made."

[242] Be that as it may, nothing in what was said that day could conceivably go so far even as between the parties, let alone in a way that would bind the Magistrates Court. The part of the transcript on 8 November 2022 upon which the appellant pinned his contentions in this Court was when the QPS representative, Ms Donkin, said:[161]

> "MS DONKIN: Correct, your Honour. And for completeness' sake, I would just like to bring to the court's awareness that there is actually a part-committal hearing which had been set down for the 10th of November in the Magistrates Court, and **it's proposed in terms of dealing … with that that there be an application for an**

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158 Transcript 1-4 lines 32-38.
159 Transcript 1-5 line 33 to 1-6 line 5; T 1-9 lines 15-28; T 1-10 lines 19-29; T 1-11 line 13.
160 AB 38 lines 28-33. Emphasis added.
161 Transcript 1-3 lines 25-33. Emphasis added.

> **adjournment in that matter until such time as these proceedings are finalised**.
>
> HIS HONOUR: And that'll be an application in the Magistrates Court.
>
> MS DONKIN: Correct, your Honour."

[243] It is, in our view, impossible to construe that passage as reflecting an agreement of the kind for which the appellant contended on 31 March 2023 and before this Court on the application for interlocutory relief. Everything said on all sides on 8 November 2022 was directed at the adjournment in the Magistrate's court in order to accommodate the proceedings at first instance in the Supreme Court being brought on for final hearing. The comment just quoted was made immediately after the judge indicated that the originating application would have to go to the civil list on 24 November 2022 because the time estimated was beyond that for the application jurisdiction.[162]

[244] Nothing was said by anyone that finalisation meant anything beyond the first instance proceedings. It was the first instance proceedings that were being discussed and Ms Donkin's reference to "these proceedings" was plainly a reference the proceedings at first instance. It is irrational to suggest otherwise given that success for the appellant in the Supreme Court proceedings would have meant there was nothing remaining in the Magistrates Court.

[245] This point fails.

A related point – hearing 31 August 2023 – failure to seek the prosecutor's view

[246] The appellant contends that because the Magistrate failed to seek the prosecutor's position in relation to the agreement, that meant her Honour acted as "the legal representative for the Queensland Police Service", and her Honour "represents the Queensland Police Service".[163]

[247] The point is without merit. The suggestion that the Magistrate acted for the QPS or was their representative is an unwarranted and outrageous slur.

[248] Reference to the transcript reveals:

(a) much of the hearing was occupied by the appellant asserting that there was an agreement to adjourn, to which the Magistrate was party, and the Magistrate saying there was no such agreement;[164]

(b) at the point when the Magistrate realised the hearing was for mention only, her Honour asked the prosecutor for dates for the resumption of the part-heard application to cross-examine;[165]

(c) after further attempts by the appellant to argue the existence of the alleged agreement, even though the matter was for mention only, her Honour again

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162 Transcript 1-3 lines 8-19.
163 Appellant's application outline paragraph 8.0-8.3.
164 Transcript 1-2 to 1-5; 1-6 to 1-9.
165 T 1-5 lines 39 to 1-6 line 13.

sought dates from the prosecutor, who advised why some suggested dates were unsuitable, then agreed on 21 November 2023;[166]

(d) once that date was set, the balance of the hearing was occupied by the appellant's assertions of: the alleged agreement, denial of procedural fairness, fraud on the part of the Magistrate, and a request that her Honour stand aside after the order was made;[167] and

(e) two occasions when the Magistrate set out what was to occur on 21 November 2023.[168]

[249] Given that the hearing was merely a mention and all that was required was to ascertain a suitable date, there was no necessity for the Magistrate to seek more from the prosecutor than her Honour did. The suggestion that her Honour's failure to seek more indicates that her Honour acted as "the legal representative for the Queensland Police Service", and her Honour "represents the Queensland Police Service' is risible.

[250] This point fails.

A related point – hearing on 31 August 2023 – Sgt Colclough

[251] The appellant also attacked a statement by Sgt Colclough, who appeared for the prosecutor on 31 August 2023.

[252] In the course of a submission by the appellant contesting that the Supreme Court matter had been finalised, the appellant made this comment and the exchange followed:[169]

> "DEFENDANT: - - - because representing you agreed by consent to adjourn these – this committal proceeding until the matte was finalised in the higher court. It has not been finalised; therefore - - -
>
> HER HONOUR: Now, I know nothing of that. Do you know anything of that, Sergeant Colclough?
>
> DEFENDANT: Allow me to lead you to the evidence of it.
>
> SGT COLCLOUGH: I'm not involved in those proceedings, your Honour, so I couldn't provide you with any information."

[253] The appellant contended that the response by Sgt Colclough was a lie, "cogent evidence of Fraud" and an attempt to pervert the course of justice.[170]

[254] We reject the contention.

[255] Sgt Colclough said he was not involved in the Supreme Court proceedings, either generally or at least on 8 November 2022, the day that the agreement was said to have been made.

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166 Transcript 1-9 to 1-10.
167 Transcript 1-11.
168 Transcript 1-13, 1-16 to 1-17.
169 Transcript 1-14 lines 1-11.
170 Appellant's application outline paragraph 7.0.

[256] The person appearing for the QPS on 8 November 2022 was Ms Donkin. Mr Bonasia of Counsel appeared for the QPS before Wilson J. There is no reason to think Sgt Colclough was involved.

[257] The appellant's point seems to be that he made submissions in respect of Sgt Colclough's conduct in the course of the primary proceedings. So he did. It was to criticise the response made by Sgt Colclough to the appellant's request to cross-examine SCon Barker on issues of corruption.[171] The QPS response refused to consent to such cross-examination and the appellant's submission to the learned primary judge was that was evidence of "attempts to cover up the actions of corrupt police officer".[172]

[258] As the learned primary judge pointed out to the appellant when that submission was made, the appellant's request to the QPS was " … just a submission. It's up for the magistrate to make that determination."[173]

[259] Her Honour was plainly right. That submission warranted no further attention and it received none in the decision of the leaned primary judge.

[260] It provides no foundation for suggesting that when Sgt Colclough said he was not involved in the Supreme Court proceedings and therefore could not assist in respect of the alleged agreement, that he was lying. Plainly he was simply saying he was not involved in the conduct of those proceedings, or in a way which would enable him to assist in relation to the alleged agreement.

[261] This point fails.

Conclusion on the issue of serious question to be tried

[262] On this application the appellant seeks to advance grounds substantially the same as were advanced at first instance. That is to say, the appellant advances a case that he has been improperly charged and prosecuted, and the judicial system has improperly shielded that misconduct from view. For that reason, he contends, the committal should be held where it is until he has exhausted all rights of appeal including to the High Court.

[263] The evidentiary foundation for such a case has been found to be wanting. As we have endeavoured to show, there is no basis to the appellant's assertions that the Magistrates have acted improperly, nor have the prosecutors acted in a way that can be criticised. This is not the trial of such allegations but they do not stand the slightest scrutiny. The case comes nowhere near establishing "a prima facie case, in the sense that if the evidence remains as it is there is a probability that at the trial of the action the plaintiff will be entitled to relief".[174]

[264] Further, the relief sought here involves an interference in the conduct of another court's processes, in the nature of a stay of the committal proceedings. The Magistrates Court has the conduct of the committal under the *Justices Act*. It is still an open question as to whether this Court has such power. In *Dupois v Queensland*

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171 AB 655-657.
172 AB 657 lines 23-44.
173 AB 658 line 14.
174 *Australian Broadcasting Corporation v O'Neill* (2006) 227 CLR 57 at [65]-[72]; [2006] HCA 46.

Police & Anor[175] Bowskill CJ referred to a decision of this Court in *Palmer v Magistrates Court of Queensland*:[176]

> "[26] As Fraser JA (with whom Morrison JA and Boddice J agreed) said in *Palmer v Magistrates Courts of Queensland*, it remains an open question whether the Supreme Court, exercising its supervisory jurisdiction, has the power to grant a stay of committal proceedings. For the purposes of determining the present application, I have proceeded, favourably to the applicant, on the basis that the Court does, in theory, have such power."

[265] A clear and compelling case would have to be made for this Court to exercise any supervisory jurisdiction and interfere in the Magistrates Court. Such a case is absent.

[266] The need for restraint when interfering in a court's criminal processes has been often stated. In *Dupois v Queensland Police & Anor*,[177] Bowskill CJ said:

> "[28] Likewise, in *Dupas v The Queen* (2010) 241 CLR 237 at [37] the High Court reiterated, on an application for a permanent stay:
>
> > "… the need to take into account the substantial public interest of the community in having those who are charged with criminal offences brought to trial, the 'social imperative' as Nettle JA called it, as a permanent stay is tantamount to a continuing immunity from prosecution. Because of this public interest, fairness to the accused is not the only consideration bearing on a court's decision as to whether a trial should proceed."
>
> [29] In *Palmer v Magistrates Courts of Queensland* at [47], Fraser JA observed that:
>
> > "The circumstance that the appellants' claims invoke the supervisory jurisdiction in relation to a committal hearing supplies an additional reason for a cautious approach: see *Gorman v Fitzpatrick* [(1987) 32 A Crim R 330]."

[267] Thus the normal caution is all the greater when the interference would be in relation to a committal, a process which is the province of the Magistrates Court, and administrative in nature.

[268] The relief sought here would have the effect of interfering with the regular administrative processes of the committal, and interfering with the Magistrates Court's part-heard application. The public interest in having those who are charged with criminal offences brought to trial should not be easily put to one side. In our view no basis has been demonstrated for granting such an injunction, the effect of which would be to stay the committal.

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175 [2022] QSC 241 at [26]. Internal footnote omitted.
176 [2020] QCA 47; (2020) 3 QR 546 at [43].
177 [2022] QSC 241 at [28]-[29]. Internal footnotes omitted.

[269] The second form of relief sought is to have the 21 November hearing date vacated. That application fails for the same reasons.

Costs of the application for injunction

[270] There is no reason why costs should not follow the event. For the reason we have given on the grounds of the appeal and on the application for interlocutory relief, there is no public interest case, nor any other factor, which should deny costs.

Further affidavit filed 2 November 2023

[271] On 2 November 2023, while the decision on the appeal was reserved, the appellant filed another affidavit attaching a USB stick containing 12 files, comprising transcripts, audio recordings and emails to various bodies and recipients.

[272] That affidavit was not filed pursuant to any leave granted by this Court. No application has been made to adduce the affidavit as further evidence on the appeal. It has therefore not been taken into account.

Conclusion and orders

[273] For the reasons expressed above the appeal, application to adduce further evidence and the application for interlocutory relief must be dismissed, with costs.

[274] The orders are:

1. Application to adduce further evidence dismissed.
2. Appeal dismissed.
3. Application for an interlocutory injunction dismissed.
4. The appellant pay the first respondent's costs of the applications and the appeal.