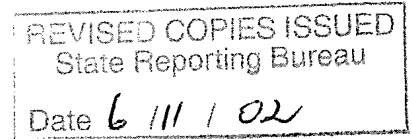




## Transcript of Proceedings

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SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

AMBROSE J

No S3672 of 2001

COMMONWEALTH DIRECTOR OF PUBLIC  
PROSECUTIONS

Applicant

and

CHERIE PAUL

Respondent

BRISBANE

..DATE 23/10/2002

JUDGMENT

**WARNING:** The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

HIS HONOUR: This is an application for an extension of a restraining order made some time ago on the 30th April last year to 12 midnight on 15 March 2003. In the circumstances of this case as contained in the material I am prepared to extend the operation of that order.

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There is an application also for an order that the respondent pay a pecuniary penalty in the amount of \$383,359.10. It emerges in the evidence that the respondent was charged shortly after her arrest for fraud against Commonwealth instrumentalities on the 18th April 2001. She was then charged with procuring unlawfully the sum of \$383,359.10 to which I have referred. Apparently, she was kept in custody until she was given bail on 25 October 2001. Her committal proceedings were set down for hearing on 8 November 2001. However, by 8 November 2001 she had absconded breaching the various conditions upon which she was given bail.

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On 8 November 2001 the Magistrates Court issued a Bench Warrant for her arrest. However, in spite of searches and inquiries made since that time her whereabouts has not been ascertained. Under the relevant legislation which is section 17 of the Proceeds of Crime Act 1987 where a person by reason of paragraph 5.1(b) is deemed to have been convicted of an indictable offence the Court, if satisfied, having regard to all the evidence before it that a reasonable jury properly instructed could lawfully find the person guilty of the offences charged in circumstances, then a pecuniary penalty order may be made.

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Under section 5.1(d) and section 17 of the Act she is deemed to have been convicted if she is shown to have absconded in connection with the offences charged. I am satisfied on the evidence placed before me that she is deemed to have been convicted because she absconded while on bail for this offence and she absconded more than six months ago. Under section 26.1 (c) and (d) of the Act a Court may assess in accordance with section 27 the value of the benefits derived by the respondent in this case and order the respondent to pay a pecuniary penalty equal to the amount of that benefit.

I have considered the evidence available to the Director of Public Prosecutions in this case. That evidence may be summarised briefly. On the date of her arrest acting on information obviously procured by preliminary investigations a search warrant was obtained for the place where the respondent was living.

Upon searching that place a large number of cards - I think 11 - were found in different names and bearing the photograph of the - or some of them at least bearing the photograph of the respondent. Also discovered were plastic bags with photographs of the respondent having slight variations to her hair do and her appearance with the names of various aliases that the Crown says she adopted in her fraudulent extraction of money from appropriate government departments.

When asked to explain these things the respondent made no

reply. She declined to be interviewed. She made no admissions either before or after her arrest.

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In addition to all that evidence and to evidence available from various banks where the respondent had opened accounts in the name of the various aliases that she adopted and to evidence that money was forwarded to her under those aliases - using those various aliases - forwarded to her by transferring money into those accounts from which it emerges she used to extract or withdraw money and to evidence that she fraudulently claimed benefits from Commonwealth instrumentalities (or at least one of them) to the extent of \$383,359.10; and that this appears to be the total of the various moneys forwarded or transferred to bank accounts she opened in the name of various aliases and to evidence from bank officers and government departments which can establish that fact, I am satisfied on the balance of probabilities that the respondent has absconded and having regard to all the evidence that was available to present against her upon her committal proceedings which she avoided by breaching her bail conditions, a reasonable jury properly instructed could lawfully find that the respondent was guilty of the offences with which she was charged.

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In the circumstances I am prepared, therefore, to order that pursuant to section 26 of the Proceeds of Crimes Act 1987 the respondent pay a pecuniary penalty to the Commonwealth in the amount of \$383,359.10.

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In fact it emerges on the evidence that items of property found and money found in the custody of the respondent amounting to \$16,911.17 together with personal belongings and household effects in her custody and apparently belonging to her worth \$2,500.00 are held by the Official Trustee in Bankruptcy and it seems to me on the material pursuant to section 49(1)(b) of the Act it is open to make and I do make an order that the Official Trustee pay to the Commonwealth in accordance with that section part of the penalty which I have ordered.

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HIS HONOUR: I make an order pursuant to section 49 that so much of the household effects and personal belongings as are sold by the Official Receiver and reduced to cash that that cash, together with the sum of \$16,911.17 seized be paid to the Commonwealth in part satisfaction of the pecuniary penalty which I have ordered the respondent to pay.

Pursuant to section 49(3) of the Act I direct that the Official Trustee shall sell or otherwise dispose of the household effects and personal belongings estimated to have the value of \$2,500.00 and I appoint the Official Trustee to execute any deed or instrument in the name of the respondent or any other person who has an estate interest or right in that property to do anything or any act or thing necessary to give validity and operation to that deed or instrument.

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HIS HONOUR: I order that costs of this application be reserved.

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