

OUR REFERENCE

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YOUR REFERENCE

DATE

19 March, 2012.


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NOTICE: TENDENCY EVIDENCE

PURSUANT TO : **SECTION 97 OF THE EVIDENCE ACT 1995 NSW**
MATTER : PROSECUTION of **PHILIP WILLIAM DOYLE**
REFERENCE : H38688428
2009/00194799
DPP CASES NO : 200921346

Notice is hereby given that the Prosecution presently intends to adduce evidence of "tendency" pursuant to the tendency rule in sub-section 97(1) of the Evidence Act 1995, ie. evidence of the character, reputation or conduct of a person, or tendency that a person has or had to prove that a person has or had a tendency (whether because of the person's character or otherwise) to act in a particular way or to have a particular state of mind.

1. The person whose "tendency" is the subject of the evidence sought to be adduced is the accused, Philip William DOYLE.
2. The tendency sought to be proved is his tendency to act in a particular way, namely to:
 1. To have a sexual interest in young male employees
 2. To engage in sexual activities with young male employees
 3. To use his position of authority to obtain access to young male employees so that he could engage in sexual activity with them.
 4. And, to have a particular state of mind, namely to have a sexual interest in young male employees

The activities which the Accused engaged in which demonstrate the tendencies described above include the proclivity of the Accused:

- (a) to be alone with young male employees in a cinema
- (b) to have young male employees alone with him in his car
- (c) to drive young male employees home, and pick them up from school;

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- (d) to reward the young male employees with gifts, special trips, and other things, including but not limited to:
 - i. Taking them to the speedway;
 - ii. Taking them to lunch;
 - iii. Taking them swimming;
 - iv. Taking them for rides in vintage cars;
 - v. Allowing them to watch films without charge
 - vi. Taking CFJ to see films
 - vii. Taking Kevin Whitley to see the Beatles
- (e) by forming a strong emotional bond fulfilling the role of trusted older brother, friend or mentor;
- (f) to establish trust through their work roles;
- (g) to normalise nudity or partial nudity in the context of their relationship;
- (h) to discuss sexual topics or behaviours;
- (i) to carry out sexual activity with the boys in a secluded area created by the circumstances of their trust of him being in the empty cinema, a locked section of the cinema, in the car between locations, or at a house;
- (j) by using emotional manipulation through the offer of rewards, or guilt to encourage sexual activity;
- (k) by establishing norms of sexual behaviour before escalating to different activities; and
- (l) by telling the complainant, not to tell and/or that it was their secret

3. The substance of the "tendency" evidence which the Prosecution intends to adduce is contained within the following itemised documents which have been previously served upon you.

DOCUMENT	DATE	PARAGRAPH
1. Statement of Kevin Whitley	1. 24.07.08	2. 10,14-19, 23-33, 38-41, 45-8, 49-55, 58, 63, 64, 70-2, 78, 82, 85, and 92
2. Statement of CFJ CFJ	3. 23.1.09	4. 5-10, 19-22, 31, 35-6, 40-2, 44, 46-62, 65-7, 69-72, 73, 74-7, 79, 80-83, 86, 88,90- 91, and 93-4.

- 4. So far as is known to the Prosecution, particulars of the date, time, place and circumstances at or in which the conduct referred to in paragraph 3 above occurred are contained within the documents referred to in paragraph 3 above, subject to the cross examination of those witnesses at committal proceedings.
- 5. So far as is known to the Prosecution, the names of each person who saw, heard or otherwise perceived the conduct referred to in paragraph 3 above are contained within the documents referred to in paragraph 3 above.
- 6. In the view of the lawyer with the current conduct of the matter, the tendency evidence sought to be adduced bears upon the facts in issue in this prosecution, including the following facts in issue:
 - a. Whether the accused was naked in the presence of Kevin Whitley;
 - b. Whether the accused encouraged Kevin Whitley to be naked in his presence;

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- c. Whether Kevin Whitley would sit on the accused's lap while they were naked;
- d. Whether Kevin Whitley rubbed his anus against any part of the accused;
- e. Whether Kevin Whitley and the accused rubbed their penis against the other person;
- f. Whether Kevin Whitley touched the accused on the penis
- g. Whether the accused had anal intercourse with Kevin Whitley;
- h. Whether the accused used emotional pressure on Kevin Whitley to engage in sexual activity with the accused;
- i. Whether the accused rewarded Kevin Whitley with gifts and other special treatment;
- j. Whether the accused would wear Speedos to the cinema with CFJ;
- k. Whether the accused touched CFJ on the penis;
- l. Whether CFJ touched the accused on the penis;
- m. Whether CFJ and the accused had oral sexual intercourse;
- n. Whether CFJ and the accused had anal sexual intercourse;
- o. Whether the accused used emotional pressure on CFJ to engage in sexual activity with the accused;
- p. Whether the accused rewarded CFJ with gifts and other special treatment; and
- q. Whether any conduct that the accused carried out had an innocent explanation

Signed:

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Printed Name:

Rabea Khan
Solicitor in the employ of the
Office of the Director of Public Prosecutions

Telephone:

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Note: Clause 5 Evidence Regulation 2010 states:

5 The tendency rule and the coincidence rule – form of notices

- (1) This clause is made for the purpose of section 99 of the Act.
- (2) A notice given under section 97(1)(a) of the Act (relating to the tendency rule) must state:
 - (a) the substance of the evidence of the kind referred to in that subsection that the party giving the notice intends to adduce, and
 - (b) if that evidence consists of, or includes, evidence of the conduct of a person, particulars of:
 - (i) the date, time, place and circumstances at or in which the conduct occurred, and
 - (ii) the name of each person who saw, heard or otherwise perceived the conduct, and
 - (iii) in a civil proceeding – the address of each person so named, so far as they are known to the notifying party.