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Memorandum

To: Mr. R.N. Miller QC
Director of Public Prosecutions

Through: Mr. Michael Byrne QC
Deputy Director

From: Jeff Clarke
A/Legal Practice Manager
Rockhampton DPP

Date: 21 June 2000

Re: R-v- Kevin Leslie BAKER: Neerkol

Baker was indicted on 6 charges of a sexual nature involving REDACTED in the Rockhampton District Court on 19 June 2000. The charges were brought following Mr REDACTED's complaint to police about the accused's conduct at the Neerkol orphanage, outside of Rockhampton, between 30 – 40 years ago.

Baker has been charged with sexual offences and offences of violence involving 11 complainants, all residents of Neerkol in the same time frame.

REDACTED was the second complainant, although as you are aware, Baker has been to trial on three occasions (without result) on charges of a sexual nature relating to AYR (REDACTED sister).

I enclose a copy of the following relating to the aborted Baker trial involving AYR, before Judge Robertson in December 1999:

1. My memo dated 16.12.1999
2. Mr. Byrne's memo dated 23.12.1999
3. Mr. Miller's memo dated 14.01.1999 to the Attorney-General

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At the outset of the trial involving [REDACTED], the defence made applications to stay the indictments involving [AYR] and [REDACTED]. These applications were not successful: the stay application involving [AYR] has not been ruled on, but has been adjourned to a date to be fixed.

However, His Honour Judge Nase ruled (having regard to *S, Knuth, Rogers and Stevens*) that there were insufficient particulars provided in respect of these charges and a *nolle prosequi* was entered. His Honour specifically stated that this course would allow for the ruling to be tested.

I further enclose:

4. Indictment: [REDACTED]
5. Statement and addendum: [REDACTED]
6. Trial transcript 19.06.2000
7. Transcript of ruling 20.06.2000

Recommendation

I submit that consideration be given to instituting an appeal against the ruling, in an effort to have the issue again determined by the Court of Appeal. The complainant has also asked me to convey to you his desire to have the ruling reviewed. [REDACTED] concern is that the current state of the law effectively allows the majority of sexual offenders to escape punishment.

Also, consideration should be given to making a further submission to the Attorney-General to legislate against the effect of these rulings.

The requirement of the law presently that there be more detail provided by complainants, having the requisite "objective external fact or event" is, in my experience, not possible.

In my view, unless action is taken immediately to rectify the rules created by the authorities of *S* and the subsequent cases, victims of sexual abuse, whether "historical" complaints or not, will be denied justice.

As regards the instant case, there are still nine remaining complainants against Baker. As you are aware, there are also a number of trials concerning Reginald Basil Durham pending in the Brisbane District Court.

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The ability for the Crown to proceed with any of these complaints must be effectively pointless in view of the rulings in the trials involving AYR and REDACTED

Please contact me to discuss this matter further, as required.

Jeff Clarke
A/Legal Practice Manager