

JCW(s) 7

Avey, Lisel

From: CDW [REDACTED] >
Sent: Wednesday, 4 May 2011 4:01 PM
To: Avey, Lisel
Subject: Re: CDV [REDACTED] appeal

Hi Lisel

Thank you for explaining all this - it helps a lot.

[REDACTED] is currently overseas at this time and is not due back until later in June. He has gone on a 'big adventure' which includes him doing some voluntary veterinary work in [REDACTED]. I will be able to pass the information on to him once he reaches [REDACTED] next week.

Once again, thank you so much for your time, I really do appreciate it.

Kind regards

CDW

----- Original Message -----

From: Avey, Lisel
To: CDW
Sent: Wednesday, May 04, 2011 3:45 PM
Subject: RE: CDV [REDACTED] appeal

Hi [REDACTED]

In summary, most of the grounds of appeal relate to the direction the Judge gave to the jury. There are various grounds that claim the direction to the jury was excessively long & complex, that the order in which the Judge went through the facts and the law made it difficult for the jury to follow, that the direction did not adequately represent the defence case and did not make it clear to the jury that the delay between the events and the trial made it harder for Mr [REDACTED] to present a defence. There are other grounds, but in essence that is the general gist of the appeal.

I note that although the granting of leave to appeal means that a Judge has formed a view that an appeal has a reasonable prospect of succeeding this should not be taken as an indication of the likely outcome - the finding of 'reasonable prospects' is routinely made in cases such as this. The majority of appeals against conviction are ultimately dismissed following a full hearing in the Court of Appeal.

Please let me know if you have any other questions.

Kind regards,

Lisel Avey | State Prosecutor

Office of the Director of Public Prosecutions for Western Australia
 INTERNATIONAL HOUSE Level 5, 26 St George's Terrace Perth WA 6000

[REDACTED]



DIRECTOR OF PUBLIC PROSECUTIONS

From: CDW [mailto:[REDACTED]]
Sent: Wednesday, 4 May 2011 3:36 PM
To: Avey, Lisel
Subject: Re: CDV [REDACTED] appeal

Dear Lisel

Sorry to bother you again, but do you know what grounds CDV is appealing his conviction and sentence upon? Are you permitted to disclose these grounds to us.

Kind regards

CDW

----- Original Message -----

From: Avey, Lisel

To: CDW

Sent: Wednesday, May 04, 2011 11:08 AM

Subject: CDV appeal

Dear CDW & REDACTED

The CDV appeal has been listed to be heard in the Court of Appeal on 8 August 2011. Justin Whalley will be appearing as counsel and I will be his junior counsel. As I explained in my earlier email you are more than welcome to attend the appeal if you choose though a decision will not be handed down that day.

I will advise REDACTED about the proceedings also. Please call or email me if you have any questions.

Kind regards,

Lisel Avey | State Prosecutor

Office of the Director of Public Prosecutions for Western Australia
INTERNATIONAL HOUSE Level 5, 26 St George's Terrace Perth WA 6000

REDACTED



DIRECTOR OF PUBLIC PROSECUTIONS

From: Avey, Lisel

Sent: Tuesday, 5 April 2011 12:12 PM

To: CDW

Subject: TRIM: RE: CDV's Appeal

CDW

By all means pass the email onto REDACTED

Thanks,

Lisel Avey | State Prosecutor

Office of the Director of Public Prosecutions for Western Australia
INTERNATIONAL HOUSE Level 5, 26 St George's Terrace Perth WA 6000

REDACTED



DIRECTOR OF PUBLIC PROSECUTIONS

From: CDW [mailto:REDACTED]

Sent: Tuesday, 5 April 2011 11:44 AM

To: Avey, Lisel

Subject: Re: CDV's Appeal

Dear Lisel

Thank you so much for your prompt response and explanation. We really appreciate your time.

Would you mind if we pass this onto the other families, as we are all in close contact with each other on this matter.

Kind regards

CDW [REDACTED] and [REDACTED]

----- Original Message -----

From: Avey, Lisel

To: CDW [REDACTED]

Sent: Tuesday, April 05, 2011 11:24 AM

Subject: RE: CDW [REDACTED]'s Appeal

Dear CDW [REDACTED] & [REDACTED]

The State's response to the appellants submissions was filed on 30 March 2011. There is no hearing date set in the Court of Appeal yet. As the appeal is against conviction and sentence there is a lot for the Court to consider and quite lengthy oral argument may be required. Therefore, it is unlikely to be heard before the second half of this year.

You are more than welcome to attend the hearing of the appeal but you do not have to. The same is true of Mr CDW [REDACTED]. He is able to attend the hearing if he wishes. It is likely he would appear by video link but we would not know this in advance. This may impact upon your decision to attend. We will let you know the hearing date when it is set so you can make a decision then. As I said above, we expect the hearing to be in the last 3-4 months of this year. The decision would not be handed down on that day. It would be a reserved decision and could take anywhere for a few weeks to a few months for the Court to hand down. I hope this doesn't dishearten you. Unfortunately the progress of appeals is slow.

I can't comment about the case you read about in the Weekend West as I am unfamiliar with it. Whilst obviously some appeals succeed, the fact that leave to appeal has been granted in this case should not be taken as an indication of the likely outcome. The majority of appeals against conviction are ultimately dismissed following a full hearing in the Court of Appeal.

Please don't apologise for being unduly concerned. It is an important part of our role as State Prosecutors to keep victims and their families informed of the progress of appeals. Email or call me if you have any more questions.

Kind regards,

Lisel Avey | State Prosecutor

Office of the Director of Public Prosecutions for Western Australia
INTERNATIONAL HOUSE Level 5, 26 St George's Terrace Perth WA 6000

[REDACTED]



DIRECTOR OF PUBLIC PROSECUTIONS

From: CDW [REDACTED] [mailto:[REDACTED]]

Sent: Monday, 4 April 2011 12:42 PM

To: Whalley, Justin; Avey, Lisel

Subject: CDW [REDACTED]'s Appeal

Dear Justin and Lisel

We are hoping that you would be able to tell us if there is any news on CDW [REDACTED]'s appeal and when it is likely to take place. We are all very anxious, as you can imagine.

We read, with alarm, an article in The Weekend West (page 27), about a teacher who has been cleared of sexually assaulting three juveniles and has won his bid to get a new working with children permit. It was reported that; "uncharged offences" used at the trial to show a "course of conduct" should not have been allowed, and that there were Errors in Law made in showing that similarity between the allegations formed a reasonable suspicion. We can see that the case is a quite different to ours - but we are seeking some reassurance and clarification. We apologize if we come across as unduly concerned and do appreciate that you are very busy with many other more pressing cases.

Kind regards

CDW and REDACTED

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