

JCW(s) - 10

Avey, Lisel

From: Whalley, Justin
Sent: Monday, 15 August 2011 1:54 PM
To: CDW
Cc: Avey, Lisel
Subject: RE: CDW Appeal

CDW

The trial will not necessarily be heard by the same Judge. In this particular case it is more likely that it would be heard by a different Judge.

We would apply to lead evidence of the offences against the younger boys in any trial involving the older boys. Whether or not we would be permitted to do so is another matter but we would have a relatively strong argument to support our application.

The trial will be before a jury unless the accused applies for it to be before a Judge alone. If he did make such an application then we would probably oppose it unless the defence put forward good reasons as to why it should not be in front of a jury.

We would be likely to call all the witnesses from the first trial although if we were permitted to use the evidence of the REDACTED boys they wouldn't have to come back and we would just play the recording of their evidence from the first trial. Also, CGY's evidence from the first trial was recorded (because he gave it by CCTV from a remote room) so he probably wouldn't have to come back either and we would just play the recording of his evidence from the first trial as his evidence in the second.

I hope that answers your questions but please contact me if you have any more.

Regards,

Justin Whalley

Senior State Prosecutor - Trial Team 1
 Office of the Director of Public Prosecutions
 Level 1, 26 St Georges Terrace,
 Perth. 6000

CDX

From: CDW [mailto:CDX]
Sent: Monday, 15 August 2011 8:45 AM
To: Whalley, Justin
Cc: Avey, Lisel
Subject: CDW Appeal

Good morning Justin

I have a couple of questions regarding Mr. CDV's appeal and am hoping that you don't mind me asking you, if a re-trial does go ahead ... for the older boys ...

- Is a re-trial heard by the same judge?
- Would Mr. CDV's convictions for the younger boys be disclosed to the court in a re-trial?

Is a re-trial carried out before a jury? Or, because the matter was reported in the media throughout the hearings, trial and sentencing of the original trial, is it heard by a judge or magistrate only?

- Is a re-trial based solely on the evidence of the original trial, or can new evidence and witnesses be called?
- Are all witnesses recalled for a re-trial?

Kind regards

CDW

REDACTED