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THE SUPREME COURT OF

THE NORTHERN TERRITORY

SC 21805431, 21727736, 21740135

THE QUEEN

and

RENAE BRETHERTON

KELLY J

TRANSCRIPT OF PROCEEDINGS

AT DARWIN ON WEDNESDAY 17 MARCH 2021 AT 9:11 AM

Transcribed by: EPIQ

MR WRATHALL: Your Honour, may it please the court, Wrathall appearing on behalf of the Crown instructed by Community Corrections in this matter.

HER HONOUR: Mr Wrathall. Yes.

MR LAWRENCE SC: If it please the court, I appear for Ms Bretherton. She is just entering the dock now, your Honour.

HER HONOUR: Yes. Mr Lawrence.

Yes. Have a seat, Ms Bretherton.

Now, before this matter proceeds, I do need to make a disclosure, and that is that I have obtained an opinion from a senior defamation lawyer, a senior defamation silk, to the effect that Mr Lawrence has defamed me in an online article and that, in his opinion, there are no available defences and that damages are likely to be substantial.

Now, I have not made a final decision as to whether or not I am going to take that any further.

Now, of course, I would not let that affect my consideration of Ms Bretherton's matter. But, it does seem to me that a fair-minded observer with knowledge of those facts might think that I may not bring an open and unbiased mind to the consideration of any matter in which Mr Lawrence appears as counsel and that I should, therefore, excuse myself.

Now, I take it you would agree with that, Mr Lawrence?

MR LAWRENCE: Yes.

HER HONOUR: Yes. Look, I should add - - -

MR LAWRENCE: If that's your Honour's view then clearly that's - - -

HER HONOUR: Well, it is not my view that I am biased - - -

MR LAWRENCE: No. No. But, I heard what you said.

HER HONOUR: It is not my view that I would - - -

MR LAWRENCE: No. No. I understand that. But, in the circumstances - - -

HER HONOUR: It does seem to me that any fair-minded observer may well hold that opinion or that suspicion. I should add that that article did not refer to me personally, but referred to all of the justices of this court and so that the advice would apply in the same terms to them. But I am the one who sought the advice and I am the one who is contemplating taking action.

So, in those circumstances, I will recuse myself from this matter and Ms Bretherton's matter will have to be dealt with by another judge.

MR LAWRENCE: Would it be too much to ask what the article is? I've written so many.

HER HONOUR: Yes. It would be too much, Mr Lawrence.

MR LAWRENCE: Thanks very much.

HER HONOUR: Now, Mr Wrathall.

MR WRATHALL: On that basis, your Honour – on that basis then the Crown's proposal is to adjourn the matter to the CCO listing next Thursday and it can be allocated to a new judge.

HER HONOUR: Yes.

So, I will refer Ms Bretherton's breach matter to the criminal call-over list on Thursday. What's the date?

MR WRATHALL: Twenty-sixth (sic), your Honour.

HER HONOUR: Twenty-sixth of – 25th, I think. 25 March. Yes. All right. So, nothing further can be done in relation to that.

MR LAWRENCE: At 10 am?

HER HONOUR: I don't know what time it is.

MR WRATHALL: Two pm.

MR LAWRENCE: Two pm.

HER HONOUR: Two pm.

MR LAWRENCE: Thank you.

HER HONOUR: Yes. All right. Thank you.

Please adjourn the court.

ADJOURNED 9:14 AM ACCORDINGLY