

III SUMMARY OF PRINCIPAL DETERMINATIONS

Note: The only parties to the section 12 hearing were Ms Catt and the Crown. Mr Thomas was represented for a short period but only for a specific purpose. Neither he, Det Paget, Mr Newell, Mr Catt nor anyone other than the parties was given leave to cross-examine witnesses generally or present any evidence going to the determination of factual issues. To the extent to which any of the determinations assert or suggest that any person may have committed a criminal offence they are therefore to be regarded as provisional for that reason.

(a) WEIGHT TO BE GIVEN TO THE EVIDENCE AT THE SECTION 12 HEARING OF CHRISTOPHER, SHARON, JULIE AND TONY CATT (SEE PARAS. 103-108; 425-428; 516; 783; 849-853)

33. A jury having rejected the evidence of all four of the Catt children at the trial of Barry Catt to the effect that they were sexually assaulted by him, their evidence now given to the effect that they were not, is accepted on that issue. This is because it is likely that the jury rejected their evidence on the basis that they may have been subjected to pressure by Ms Catt.

34. A jury at the trial of Roseanne Catt found beyond reasonable doubt that three of the Catt children, Christopher, Sharon and Julie were not witnesses of truth as to the "rock" incident (Counts I and 2) and the "cricket bat/eucalyptus oil" incident (Count 4). The evidence now given by them to the opposite effect, and consistent with the jury's verdicts as to these counts although from an unreliable source, may nevertheless provide some support for the Crown's case on those counts. This is so on the basis that their previous account may be regarded as

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likely to have been rejected by the jury because of pressure having been applied by Ms Catt.

35. Where no previous version was given by any of the Catt children but a version was given at the section 12 hearing which is consistent with a verdict of the jury in the trial of Roseanne Catt, that evidence is not accepted by me because it comes from an unreliable source (c/f Davies and Cody v The

King (1937) 57 CLR 170, 183-5). This is so because one jury has already rejected the evidence of all four as not coming from witnesses of truth and another has reached the same conclusion as to three of them beyond reasonable doubt. Therefore the evidence of the Catt children at the section 12 hearing as to Counts 5 and 9 is not accepted by me.

(b) MS MARIE WHALEN (SEE PARAS. 141-229)

36. There is fresh evidence to support the conclusion which I draw that the evidence of Ms Whalen is so unreliable that she is not to be regarded as a witness whose evidence I accept on contested matters.

37. If that fresh evidence had been before the jury in the trial of Roseanne Catt there is a reasonable possibility that the jury may have rejected Ms Whalen's evidence either in whole or substantial part.

38. Acceptance of the evidence of Ms Whalen in whole or substantial part by the jury at the trial of Roseanne Catt is likely to have had seriously adverse repercussions to the case presented on behalf of Ms Catt on all contested issues at her trial.

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(c) COUNT 5: LITHIUM / RIVOTRIL (SEE PARAS. 263-460)

39. It is likely that Det Sgt Thomas knew on 29 July 1989 that Mr Newell was going to collect from office premises at 2-8 Cornwall Street specimens of Mr Catt's consumables in order that they might be subjected to analysis (see paras. 279-287).

40. Mr Newell's evidence to the effect that he did not tell Det Sgt Thomas what he intended to do on 30 July 1989 at the office premises at 2-8 Cornwall Street is rejected (see para. 285).

41. It is likely that on or before 31 July 1989, and probably on 29 July 1989, Mr Newell informed Det Sgt Thomas of the advice of Dr Sandfield to the effect that the erratic behaviour being exhibited by Mr Catt may have been the result of overdoses of Lithium and a drug such as Rivotril in combination (see paras. 273-288).

42. Mr Newell had both a motive and an opportunity to contaminate the substances he removed from Mr Catt's

refrigerator on 30 July 1989 before they were submitted for analysis.

43. Mr Newell was motivated by antipathy towards Ms Catt and by sympathy towards Mr Catt to such an extent that he may have himself contaminated the liquids removed by him from Mr Catt's refrigerator on 30 July 1989 before they were submitted for analysis.

44. it is likely that the request for analysis for the presence of both Lithicarb and Clonazepam was made to the Government Analytical Laboratories when the milk and orange juice were delivered to the Laboratories on 10 August 1989 (see paras. 311-322).

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45. It is likely that the request for analysis in respect of both substances referred to in para. 44 above was made by or with the knowledge of Det Sgt Thomas prior to 24 August 1989 (see paras. 311-322).

46. Contrary to his sworn evidence to that effect, there is a reasonable possibility that Det Paget may not have found containers of Lithium and Rivotril in a black handbag in a drawer in the main bedroom at 1 Cornwall Street on 24 August 1989 (see paras. 297-306; 311-344; 456).

47. It is reasonably possible that the only container of Rivotril dispensed to Mr Catt in existence as at 24 August 1989 was that produced by Mr Newell to Crown prosecuting authorities on 14 May 1991 at the trial of Roseanne Catt (see paras. 297-306; 358-371; 457-458).

48. It is reasonably possible that Mr Newell and Mr Catt did not find the container of Rivotril last-mentioned at 1 Cornwall Street on 5 September 1989 as Mr Newell claims (see paras. 297-306; 358-371; 457-458).

49. The evidence of both Mr Newell and Mr Catt to the effect that Mr Catt had a mandarine and other consumables from the refrigerator at 2-8 Cornwall Street on 6 August 1989 is not credible and is not accepted by me (see paras. 372-382).

50. The evidence of each of the four Catt children as to Ms Catt putting medication into Mr Catt's food and liquids and as to

them doing so at the direction of Ms Catt lacks credibility and is not accepted by me (para. 460).

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(d) COUNT 9: THE UNLICENSED PISTOL (SEE PARAS. 461-520)

51. Det Sgt Thomas had an opportunity to place the revolver charged in Count 9 in a drawer in the en suite vanity of the main bedroom at 1 Cornwall Street on 24 August 1989 (see para. 461).

52. It is reasonably possible that Det Sgt Thomas had an improper motive for securing the conviction of Ms Catt and of doing so by means which might include the giving, or procuring the giving of evidence known to be untrue or not believed to be true (Ch XI).

53. There is fresh evidence to support the conclusion that Det Sgt Thomas had a propensity to act in the way referred to in para. 52 above (see paras. 623-688).

54. There is fresh evidence to support the conclusion that Det Sgt Thomas may have put the revolver in the drawer where it was found by Const Cottee on 24 August 1989 in order to incriminate Ms Catt (see paras. 501-502; 512-520).

(e) OTHER ASPECTS OF THE POLICE INVESTIGATION (SEE PARAS. 521-688)

55. The use of 27 Milligan Street, Taree, for the purposes of taking statements of potential witnesses in the investigation of Ms Roseanne Catt was inappropriate (see paras. 521-524).

56. The failure to charge any person on the basis of evidence then available with any offence arising out of the alleged breaking and entering of the house of Mr Bridge on 15 September 1989 has not been adequately explained (see paras. 525-542).

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57. There is evidence to support the inference that Det Sgt Thomas may have improperly used his seniority and influence to prevent the proper investigation and the charging of any person with participation in the alleged offence referred to in para. 56 above (paras. 525-542).

58. On 24 August 1989, Det Sgt Thomas seized or supervised the seizure of property in purported compliance with a search warrant which did not authorise those seizures. He subsequently disposed of some of that property otherwise than in accordance with law. There is evidence to support the inference that he did so in disregard of his duties as a police officer and was acting in abuse of his powers (see paras. 543-572).

59. There is evidence to support the conclusion that Det Sgt Thomas abused his powers by having Ms Catt charged with breaches of bail conditions on no or inadequate evidence and for improper purposes (see paras. 573-592).

60. There is evidence to support the conclusion that Det Sgt Thomas, contrary to the instructions of a superior and having been judicially criticised for lack of objectivity as an investigator, improperly continued to take part in the investigation of charges against Ms Catt and in the preparation of the prosecution case as to those charges (see paras. 593-598).

61. Det Sgt Thomas may have abused his powers and responsibilities as such in the making of allegations to the Independent Commission Against Corruption on the basis of no or inadequate evidence (see paras. 599-608).

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62. There is fresh evidence which, when considered with evidence given or available to be given at the trial of Roseanne Catt, supports the conclusion that Det Sgt Thomas may have used improper methods which were calculated to induce information or evidence to be given by potential witnesses, regardless of its truth, and that in doing so Det Sgt Thomas was motivated by bias against Ms Catt (see paras. 609-688).

63. There is fresh evidence to support the conclusion that Det Sgt Thomas may have offered an inducement to Ms Crista Van der Merwe to give evidence which was false or not believed to be true in order to secure the conviction of Mr Ramon Bracamonte of a criminal offence (see paras. 639-662).

64. There is fresh evidence to support the conclusion that Det Sgt

Thomas may have given false evidence before a Magistrate in relation to the investigation of Mr Ramon Bracamonte and Ms Crista Van der Merwe (see paras. 663-671).

65. There is fresh evidence to support the conclusion that Mr Thomas, as an insurance investigator, may have offered a monetary bribe to a potential witness to give evidence which was false or not believed to be true in relation to the investigation of one Ms Margaret Nagy in connection with a fire (see paras. 672-688).

(f) MR SHANE GOLDS (SEE PARAS. 689-739)

66. There is fresh evidence as to Mr Thomas' conduct and propensity, both as a det sgt of New South Wales Police and as an insurance investigator, tending to support the conclusion that he may have brought improper pressure to bear on Mr Golds to give evidence in a criminal prosecution involving Ms

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Can irrespective of considerations as to the truth or falsity of that evidence (see paras. 609-688; 727).

(9) COUNT 6: MR JAMES MORRIS (SEE PARAS. 785-836)

67. The evidence does not establish that either Det Sgt Thomas or Det Paget was aware of allegations relating to sexual misconduct with under-age Aboriginal children before taking a statement from Mr Morris as to Ms Catt soliciting him to murder Mr Catt.

(h) COUNTS 1, 2, 3, 4,6AND7

68. Whilst there is evidence to support the conviction as to each of Counts 1, 2, 3, 4, 6 and 7, it is reasonably possible as to all counts that the acceptance by the jury of the Crown's case and their rejection of Ms Catt's, may have been substantially influenced, directly or indirectly, by the evidence of Ms Marie Whalen and Mr Shane Golds; the evidence of Const Cottee and Det Sgt Thomas as to the finding of an unlicensed pistol; the evidence of Det Paget as to the finding of Lithium and Rivotril in a handbag; the evidence of Mr Newell as to the finding of Rivotril on 5 September 1989 at 1 Cornwall Street and his evidence and that of Mr Catt as to a mandarins and other consumables (see paras. 689-727; 760; 784; 828-836; 872). . P-32