04/07; [2006] VSC 423

SUPREME COURT OF VICTORIA

DPP v DONNELLY & REED

Hollingworth J

30, 31 October, 1-2 November 2006 — (2006) 166 A Crim R 534

CRIMINAL LAW – EVIDENCE – ADMISSIBILITY OF ORAL AND WRITTEN ADMISSIONS – ADMISSIONS NOT TAPE-RECORDED – WHETHER ADMISSIONS MADE IN THE COURSE OF "QUESTIONING" – WHETHER ACCUSED WERE A "SUSPECT" AT THE TIME OF THE ADMISSIONS – WHETHER ADMISSIONS SHOULD BE ADMITTED DUE TO "EXCEPTIONAL CIRCUMSTANCES": *CRIMES ACT* 1958, S464H.

Donnelly: D. attended the St Kilda Road police complex, was arrested and given a full caution. A recorded record of interview was conducted. At the conclusion of the record of interview, D. indicated that he wished to make a further statement in relation to the matter. Then followed an unrecorded conversation in which D. made certain statements in a written statement where facilities were available to tape-record it. At the hearing of charges subsequently laid, D. applied pursuant to the provisions of s464H of the *Crimes Act* 1958 ('Act') to exclude the written statement and part of his oral statement.

Reed: After being charged with offences and held in custody at the Melbourne Custody Centre, R. through his solicitor indicated that he was prepared to make a statement to the police. Later, this was arranged and R. made a handwritten statement about the incident. When the charges came on for hearing, R. applied to exclude the written statement.

HELD: Applications granted. The written statements plus an oral expression were inadmissible.

1. The general principles in relation to s464H are well-travelled and set out in cases such as *Heatherington v R* [1994] HCA 19; (1994) 179 CLR 370; 120 ALR 591; 68 ALJR 418; 71 A Crim R 18 and *Pollard v R* [1992] HCA 69; (1992) 176 CLR 177; (1992) 110 ALR 385; (1992) 67 ALJR 193; (1992) 64 A Crim R 393. One of the main purposes of the sub-division in which s464H appears is to ensure the integrity of the questioning process and to reduce the scope both for impropriety and for allegations of impropriety during questioning. Provisions such as s464H are directed not only to the avoidance of fabricated admissions, but also to problems associated with the perception, recording, recollection and transmission to the court of the alleged admissions, and the dangers of mis-recollection and misunderstanding. Given the desire to protect the integrity of the questioning process, courts should avoid any technical interpretation which would unduly confine the area of operation of s464H.

2. *"Questioning".* The questioning with which s464H is concerned is the questioning permitted by s464A(2), namely, questioning in order to determine the person's involvement in the offence under investigation. Provided that questions are being asked of a suspect for that purpose, there is no need for the questioning to take any particular form. It is well-established that there may be distinct periods or episodes of questioning, at different times or places.

3. *"Suspect".* Section 464H(1) requires the admission to have been made by a person who either was suspected, or ought reasonably to have been suspected, of having committed an offence. The sub-section has both a subjective and an objective element. Did the investigating official actually consider the person to be a suspect? Even if he or she did not, ought the person reasonably to have been suspected of having committed an offence? A person's status as a suspect or witness may change over time or may change several times as a case unfolds.

4. *"Exceptional circumstances".* The phrase "exceptional circumstances" is a phrase which is used in a number of different contexts in the criminal law. Obviously its application may vary in different contexts, and means unusual, special, out of the ordinary course. It is plain that something more than good reason is required. Each case will depend on its own facts. The Crown bears the onus of satisfying the court on the balance of probabilities that the circumstances are exceptional.

***R v Steggall* [2005] VSCA 278; (2005) 157 A Crim R 402, applied.**

5. *Donnelly.* The oral admission made by D. was made in answer to questions asked by a police officer in the presence of others. At the time the relevant admissions were made by D. he was or ought reasonably to have been regarded as a suspect. When the written statement was taken there were facilities available to tape-record the statement. The fact that the statement was made voluntarily

did not make it exceptional. Accordingly, the statement and one oral expression were subject to the provisions of s464H(1) of the Act and were inadmissible.

6. *Reed.* As far as his status was concerned, R. was a person who was suspected or ought reasonably to have been suspected of having committed an offence. As the Melbourne Custody Centre was a place where facilities were available to conduct an interview, the admissions should have been tape-recorded. The fact that R. had access to legal advice before he made his statement and had volunteered to meet police and the meeting had been arranged via his lawyer did not make the circumstances exceptional. Accordingly, the statement was inadmissible pursuant to the requirements of s464H of the Act.

HOLLINGWORTH J:

Introduction

1. I have before me applications to exclude a written statement by the accused Shane Reed made on 15 July 2005, and a written statement and part of an oral statement by the accused Damien Donnelly, both made on 30 June 2005.

2. The applications are made pursuant to s464H of the *Crimes Act 1958*, which relevantly provides:

> (1) Subject to sub-section (2), evidence of a confession or admission made to an investigating official by a person who—
> (a) was suspected; or
> (b) ought reasonably to have been suspected—
> of having committed an offence is inadmissible as evidence against the person in proceedings for an indictable offence unless—
> (c) ...
> (d) if the confession or admission was made during questioning at a place where facilities were available to conduct an interview, the questioning and anything said by the person questioned was recorded by audio recording or audiovisual recording; or
> (e) if the confession or admission was made during questioning at a place where facilities were not available to conduct an interview, the questioning and anything said by the person questioned was recorded by audio recording or audiovisual recording, or the substance of the confession or admission was confirmed by the person questioned and the confirmation was recorded by audio recording or audiovisual recording; or
> (f) ...
>
> (2) A court may admit evidence of a confession or admission otherwise inadmissible by reason of sub-section (1) if the person seeking to adduce the evidence satisfies the court on the balance of probabilities that the circumstances—
> (a) are exceptional; and
> (b) justify the reception of the evidence.

3. There is no dispute that each of the statements contains some admissions. There is also no dispute that in each case the statement was made to an "investigating official". There is no suggestion that the statements were not made voluntarily.

4. However, there is a dispute as to whether s464H(1) applies at all, so as to render the evidence inadmissible and, if it does so, whether the admissions should nevertheless be admitted into evidence pursuant to s464H(2).

5. The general principles in relation to s464H are well-travelled and set out in cases such as *Heatherington v R*[1] and *Pollard v R*[2]. One of the main purposes of the sub-division in which s464H appears is to ensure the integrity of the questioning process and to reduce the scope both for impropriety and for allegations of impropriety during questioning.[3] Provisions such as s464H are directed not only to the avoidance of fabricated admissions, but also to problems associated with the perception, recording, recollection and transmission to the court of the alleged admissions, and the dangers of mis-recollection and misunderstanding.[4] The Court of Appeal has also recently said that, given the desire to protect the integrity of the questioning process, courts should avoid any technical interpretation which would unduly confine the area of operation of s464H.[5]

6. I will deal with a couple of matters of statutory construction, before considering the admissibility of each of the statements.

"**Questioning**"

7. The Crown argues that s464H does not apply to any of the admissions, because the process by which the relevant statements were obtained did not involve "questioning" of the type covered by s464H. The Crown says that "questioning" only means "formal questioning", such as occurs in a record of interview. In each case, the Crown says that the record of interview had been completed and what took place when the statements were made was something of a completely different nature, which was not required to be recorded. For the reasons which follow, I do not accept that s464H has the narrow meaning suggested by the Crown.

8. The questioning with which s464H is concerned is the questioning permitted by s464A(2), namely, questioning in order to determine the person's involvement in the offence under investigation.[6] Provided that questions are being asked of a suspect for that purpose, there is no need for the questioning to take any particular form.

9. It is well-established that there may be distinct periods or episodes of questioning, at different times or places.[7] In the case of Mr Donnelly and Mr Reed formal records of interview had been completed prior to the making of the relevant statements, but that is not the end of the matter. That does not mean, as the Crown contended, that admissions made thereafter could not also be admissions made "during questioning" for the purposes of s464H.

10. It is clear on the evidence that the taking of each of the written statements involved a process of questioning by the police officer and answering by the suspect, which was then reduced by the police officer to handwriting in the case of Mr Reed, and typewriting in the case of Mr Donnelly. The oral admission by Mr Donnelly was also made in answer to questions asked by one of the police officers in the presence of others.

11. Whether written statements may contain confessions or admissions made "during questioning" for the purposes of s464H has been indirectly considered in two cases. I was referred to a ruling by Osborn J in the case of *R v Gojanovic*.[8] As well as considering the admissibility of an oral admission made between taped records of interview, his Honour also considered the status of a written statement by the accused. In respect of that written statement, Osborn J held that the accused was not in the position of a suspect at the time the statement was made; for that reason there was no requirement to comply with s464H. However, his Honour did not suggest that the process by which the written statement was made could not constitute "questioning" for the purposes of S464H.

12. In *R v Heaney*[9], the Court of Appeal considered the admissibility of a number of admissions by one of the co-accused, Rhona Heaney, contained in a written statement, a record of interview and a re-enactment. In that case, as in *Gojanovic*, it was ultimately decided that S464H did not apply because at the time of the taking of the written statement the person was not a suspect or ought not reasonably to have been a suspect. However, the Court of Appeal did not suggest that a document produced in writing and signed by a witness could not be covered by S464H.

"**Suspect**"

13. Section 464H(1) requires the admission to have been made by a person who either was suspected, or ought reasonably to have been suspected, of having committed an offence. The sub-section has both a subjective and an objective element. Did the investigating official actually consider the person to be a suspect? Even if he or she did not, ought the person reasonably to have been suspected of having committed an offence?

14. In the case of Mr Donnelly, the Crown contends that S464H does not apply because he was not a suspect at the time of making any of the admissions, he was only a prospective witness.

15. I certainly accept as a matter of principle that a person's status as a suspect or witness may change over time, indeed may change several times as a case unfolds.[10] For the reasons which follow, I find that Mr Donnelly ought reasonably to have been considered a suspect at the relevant times.

Reed

16. Mr Reed was first arrested in relation to these matters on 20 June 2005. A written statement was taken on this occasion by a Detective Rowlands and Mr Reed was then released from custody.

17. He was arrested again on 1 July 2005 and a record of interview was conducted. At the end of that record of interview he was remanded in custody, where he remained until his second bail application on 22 July 2005. Towards the conclusion of this record of interview, he was asked whether he wished to make a further statement; he declined to do so. The record of interview was conducted in accordance with S464H and was recorded. Appropriate cautions and rights were also given or read.

18. Mr Reed's first bail application was heard by a magistrate on 14 July 2005. The police who gave evidence on that occasion vigorously opposed the granting of bail, on the basis that Mr Reed was in a show-cause situation and also because the police regarded him as an unacceptable risk. Bail was refused.

19. At the conclusion of the bail hearing on 14 July, there was a discussion between Detective Franks, the supervising officer in this case, and the barrister and solicitor who appeared for Mr Reed on that occasion. There was a further discussion that afternoon between Detective Franks and the solicitor at the solicitor's office, during the course of which the solicitor indicated that Mr Reed was prepared to make a statement to the police. Detective Franks' evidence was that he told Mr Reed's lawyers that he would only speak to Mr Reed if he gave a full and complete admission in relation to his involvement in the South Melbourne incident and would later give evidence for the Crown.

20. On the following day, 15 July 2005, Detective Franks and Detective Butterfield attended at the Melbourne Custody Centre, where Mr Reed was being held. They arrived there about midday. After some initial discussion, which lasted about 15 minutes, during which both detectives were present, Detective Franks left and Detective Butterfield remained with Mr Reed. Detective Franks says his role was to ensure that Mr Reed understood "exactly where he was positioned", and that if he gave a full and truthful statement then Franks would do what he could to assist with any sentencing issues later on down the track. Detective Butterfield was at the custody centre for more than 2 hours on that occasion. None of the initial discussion or the subsequent taking of the statement was recorded in any way.

21. Detective Butterfield could not recall whether or not Mr Reed's rights were read to him at the time or exactly what was said to him prior to taking the statement. He could not recall whether he had been told that Mr Reed wanted to make a written statement or only that he wanted to talk to the police.

22. The handwritten statement is not simply the result of some sort of dictation exercise by Mr Reed. Detective Butterfield conceded that the process of taking the statement involved a process of questioning and answering about what Mr Reed was able and willing to say about the incident. Detective Butterfield wrote out the 5-page statement by hand. Due to Mr Reed's poor literacy skills, he was unable to read it properly himself, so Detective Butterfield read it to Mr Reed before he signed it. Detective Butterfield did not keep any notes of what was said in the couple of hours of discussion which resulted in the statement.

23. As far as his status at the Melbourne Custody Centre was concerned, it is clear that Mr Reed was a person who was suspected or ought reasonably to have been suspected of having committed an offence; Detective Franks conceded as much. Unlike the position with Mr Donnelly, I do not believe it can seriously be contended to the contrary. Nevertheless, the Crown argued that what was going on was not covered by the section, because in taking the statement the police regarded Mr Reed simply as a prospective witness who would give evidence against others. That does not sit particularly well with Detective Franks' evidence that he had told Mr Reed's lawyers that he wanted Mr Reed to make a full and complete admission in relation to *his own* involvement.

24. In any event, the police only wanted to talk to Mr Reed in relation to the very matter for which he was being detained in custody. Any evidence he might have given in relation to other persons would have been evidence in relation to his co-accused. Ordinarily, an out-of-court statement made by one accused in the absence of his co-accused is evidence for or against the first accused only, not against the co-accused. Both Detectives Butterfield and Franks were trained, experienced detectives in the now-disbanded armed offenders squad.

25. The police say they thought there would not be a problem with admissibility because Mr Reed gave them an undertaking that he would give evidence against his co-accused. I note that no such undertaking was recorded in either of the police officers' notebooks nor mentioned in court on the subsequent bail application. But even if it is accepted that they took the statement on that basis, they did so at their own risk; that is to say, if in fact Mr Reed subsequently chose not to give evidence, experienced detectives ought to have been well aware that his statement would be inadmissible if not recorded.

26. Detective Butterfield said that the interview was conducted in some sort of medical examination room at the Melbourne Custody Centre; on the other hand, Detective Franks said it was conducted in an interview room. There is no doubt on the evidence that the police could easily have taken a portable recording device with them. The interview had been arranged the previous afternoon; there was no question of urgency or lack of opportunity to obtain recording equipment. Detective Franks said he did not think he needed to take a recorder. Detective Butterfield said that he simply did not turn his mind to the question of whether the statement should be recorded.

27. If the Melbourne Custody Centre is regarded as a place where facilities were available to conduct an interview, which I believe to be the case, then the statement would be inadmissible by virtue of sub-s.(d). Even if it were treated as a place where an interview room was not available, if Detective Butterfield's evidence takes on a particular slant, then it would be excluded in this case by sub-s.(e), because the police did not subsequently attempt to record the admissions.

28. It follows in the case of Mr Reed that I am satisfied that the requirements of S464H(1) are met. The statement is inadmissible unless the Crown satisfies me in accordance with S464H(2).

29. I turn then to consider the question of exceptional circumstances. In the case of Mr Reed, the Crown says that the exceptional circumstances which would justify admission are: firstly, that Mr Reed had access to legal advice before he gave the statement; secondly, that Mr Reed had volunteered to meet with the police and the meeting had been arranged by his lawyer.

30. The phrase "exceptional circumstances" is a phrase which is used in a number of different contexts in the criminal law. Obviously its application may vary in different contexts, but as the Court of Appeal has recently confirmed in the case of *R v Steggall*,[11] exceptional means "unusual, special, out of the ordinary course." It is plain that something more than good reason is required. Each case will depend on its own facts. It is nevertheless helpful to consider what has or has not been found to be exceptional in other cases.

31. At one end of the spectrum, I was referred in the course of argument to the decision in *R v Dupas*.[12] That was a case in which the police had intended and attempted to record an interview with a suspect, however the recording equipment failed. It was not until after a number of admissions had been made that the equipment failure was appreciated. Vincent J held that exceptional circumstances arose.

32. The closest case which I have been able to find to the present situation is a recent Court of Appeal decision in *R v Nicoletti & Tolone*.[13] In that case, the court was considering an appeal which involved, amongst other matters, a consideration of S464H(2). The accused's counsel, during the course of cross-examination, chose to lead evidence about some unrecorded admissions which the Crown was otherwise not proposing to lead. The question then arose as to how far the Crown could go by way of re-examination. The Crown submitted that the exceptional circumstances were that the accused Nicoletti had volunteered the relevant statement to the informant and that the accused's own counsel had opened up the topic in front of the jury. The Court of Appeal held that nothing in the circumstances of the case could be characterised as exceptional.

33. Insofar as it is suggested here that there are exceptional circumstances because Mr Reed had access to legal advice before he gave his statement, had volunteered to meet the police and the meeting had been arranged via his lawyer, it is difficult to see much difference from the situation that arose in *Nicoletti*. Even without regard to *Nicoletti*, I do not accept that any of these circumstances are exceptional.

34. I am not satisfied in the case of Mr Reed that exceptional circumstances have been made

out by the Crown. I bear in mind that it is the Crown who bears the onus of satisfying me on the balance of probabilities that the circumstances are exceptional.

35. The Crown also made submissions about other matters which might justify the reception of the evidence. They include the fact that no evidence was called by the defence on the *voir dire* to rebut the suggestion that Mr Reed gave the statement voluntarily or that its contents are true. The Crown also says that the statement is an essential part of the Crown case against Mr Reed for armed robbery (although it cannot be said to be the only direct evidence against Mr Reed[14]). All of such matters may well be relevant under sub-s(2)(b). In this case, there is the added feature that the police were well aware before they went to speak to Mr Reed of his literacy problems; that is a matter which might count against the police if one got to sub-s(2)(b). However, I note that sub-s(2)(b) (whether the circumstances justify the reception of the evidence) is additional, not alternative, to (2)(a) (the exceptional circumstances requirement). Therefore, as I am not satisfied that there are exceptional circumstances, there is no need for me to consider those other matters.

Donnelly

36. Damien Donnelly voluntarily attended at the St Kilda Road police complex at about 6 p.m. on 30 June 2005. Earlier that afternoon, a search warrant had been executed at the home address where Mr Donnelly lived with his partner Jennifer Bailey and her two children, who were the children of the co-accused Shane Reed. During the afternoon, Ms Bailey was taken to the armed offenders squad for questioning, as was Mr Donnelly's mother, who had been arrested on some outstanding warrants. Mr Donnelly was told that his partner and mother were still at the police station when he arrived there.

37. Upon his arrival at St Kilda Road, Mr Donnelly was arrested and given a full caution. He was clearly a suspect at that stage. The record of interview in respect of Mr Donnelly was conducted by Detective Butterfield, with Detective Dabb as corroborator, after full warnings had been given. It was recorded.

38. At the conclusion of the record of interview he was asked, at question 79, "Do you wish to make a further statement in relation to the matter?" He answered, "Yep". Question 80, "Yep. So you're happy to make a written statement in relation to the matter?" Answer, "Not a problem". There is no dispute that Donnelly agreed voluntarily to make a further statement.

39. After the completion of the formal record of interview, at about 7.25 p.m. that evening Detective Franks went into the interview room, where he had an unrecorded conversation with Mr Donnelly, in the presence and hearing of Detectives Dabb and Butterfield. His recollection of that conversation is as follows:

> I said, "What's wrong?"
> He said, "I just feel bad about what happened to Ben, it's my fault."
> I said, "Why?"
> He said, "Well, cause I gave out the info that got him shot."
> I said, "What do you mean?"
> He said, "The car rego and money, when he knocked off and stuff. I'm sorry, I'm sorry."
> He said, "What's gunna happen to me?"
> I said, "We will continue to investigate and may speak to you again."

40. The record of interview and that off-tape discussion both took place in an interview room. Detective Butterfield then took Mr Donnelly to a witness room, where a computer was present, to take the written statement. It is clear that a recording device could have been moved into that room, if a portable computer was not available to move into the interview room. The taking of the typed statement was not recorded and Detective Butterfield has no notes of anything said on that occasion.

41. The first issue for consideration is whether, at the time of the relevant admissions, he was either still regarded, or ought reasonably to have been regarded as a suspect. The evidence given by the police was generally to the effect that, although he may have been a suspect at the start of the interview, because he gave a satisfactory explanation about certain phone calls between his number and Mr Reed's number, they no longer regarded him as a suspect by the conclusion of the record of interview. That evidence sits somewhat uncomfortably with a question which was

asked at the end of the interview, immediately before he was asked whether he would make a further statement, question 78, "Do you wish to say anything in answer to the charge?" Answer, "Nah". None of the police explained why, in the space of one question, he had changed from being a person under arrest who had to "answer the charge" to a "mere witness". It is also not clear why it is said that he was not considered to be a suspect after he made the unrecorded oral admissions.

42. There are some differences in the police evidence as to what, if anything, was said to Mr Donnelly about the basis on which he was present at the station after the completion of the formal record of interview. It is clear that he was not told on tape that he was free to go or was no longer a suspect. Detective Franks says that shortly after his unrecorded discussion, in the presence of the other two detectives, he told Mr Donnelly that he was free to go home once the formalities or procedural matters were completed. Neither Detective Butterfield or Detective Dabb gave evidence of being present at any such conversation. Detective Butterfield says that he himself made it clear to Mr Donnelly at some unspecified time after the record of interview and prior to the written statement that he was not going to be charged. Detective Dabb said he was not present, or could not recall being present, when Mr Donnelly was told that he was free to go or would not be charged. There is no written record of Mr Donnelly having been told he was no longer a suspect or was free to go. I am not satisfied on the evidence that Mr Donnelly was in fact told whether he was required to remain or was free to leave, prior to the completion of his written statement at 7.41 p.m. I conclude that at the time of the relevant admissions Mr Donnelly was or ought reasonably to have been regarded as a suspect.

43. In respect of the off-tape oral admissions made by Mr Donnelly to Detective Franks in the presence of the others, it is common ground that, save for the reference to "when he knocked off", being a reference to when the victim knocked off work, all of those admissions were subsequently confirmed by him on tape on 10 August 2005. I do not understand the Crown to have argued that the expression "when he knocked off" ought to otherwise be admitted into evidence.

44. Mr Donnelly's written statement was taken at the St Kilda Road police complex, clearly a place where facilities were available to conduct an interview within the meaning of S464H(1)(d), therefore the interview should have been tape recorded. It follows that I am satisfied that S464H(1) does apply in respect of the admissions in Mr Donnelly's written statement.

45. The case for exceptional circumstances in respect of Mr Donnelly is even weaker than in respect of Mr Reed. The Crown relies on the fact that the written statement was made voluntarily. The voluntariness of a statement does not make it exceptional. I am not satisfied that anything by way of exceptional circumstances has been made out in respect of the few admissions made in the written statement.

46. For those reasons I rule that the two written statements plus the expression "when he knocked off" are inadmissible.

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[1] [1994] HCA 19; (1994) 179 CLR 370; 120 ALR 591; 68 ALJR 418; 71 A Crim R 18.
[2] [1992] HCA 69; (1992) 176 CLR 177; (1992) 110 ALR 385; (1992) 67 ALJR 193; (1992) 64 A Crim R 393.
[3] Ibid, 192.
[4] *R v Schaeffer* [2005] VSCA 306, [59]; (2005) 13 VR 337; (2005) 159 A Crim R 101 per Eames JA, with whom Warren CJ and Ormiston JA agreed.
[5] *R v Cavkic* [2005] VSCA 182, [248]; (2005) 12 VR 136; (2005) 155 A Crim R 275 per Vincent JA, with whom Charles JA and Osborn AJA agreed.
[6] *R v Hazim* (1993) 69 A Crim R 371, 372 per Brooking JA.
[7] *Heatherington v R* [1994] HCA 19; (1994) 179 CLR 370; 120 ALR 591; 68 ALJR 418; 71 A Crim R 18; *Pollard v R* [1992] HCA 69; (1992) 176 CLR 177; (1992) 110 ALR 385; (1992) 67 ALJR 193; (1992) 64 A Crim R 393.
[8] Unreported, Supreme Court of Victoria, 21/2/2005.
[9] [1992] VicRp 85; [1992] 2 VR 531; (1992) 61 A Crim R 241.
[10] See for example *R v Vollmer & Ors* [1996] VicRp 9; [1996] 1 VR 95.
[11] [2005] VSCA 278; (2005) 157 A Crim R 402, 406.
[12] [2000] VSC 372.
[13] [2006] VSCA 175 at [11]; 164 A Crim R 81 per Maxwell P, with whom Neave JA and Bongiorno AJA agreed.
[14] Compare with the situation in *Gojanovic*, where the only direct evidence of the accused's involvement in the very serious crime of murder was on off-tape admission by him.

APPEARANCES: For the DPP: Ms M Williams SC, counsel. Office of Public Prosecutions. For Damien Donnelly: Mr I Polak, counsel. Leanne Warren & Associates, solicitors. For Shane Reed: Mr A Jackson, counsel. Victoria Legal Aid.