

THE DISTRICT COURT
OF NEW SOUTH WALES
CIVIL JURISDICTION

CONFIDENTIAL

5 JUDGE J B PHELAN

FOURTH DAY: THURSDAY 26 SEPTEMBER 2002

10 263/02 - IN THE MATTER OF THE APPEAL OF
v DEPARTMENT OF COMMUNITY SERVICES

CLOSED COURT

15 HIS HONOUR: Ms , you're ready to proceed with your
appeal?

20 APPELLANT: I most certainly am your Honour, thank you.

HIS HONOUR: And you're ready Mr O ?

O : To proceed with the appeal your Honour.

25 HIS HONOUR: Yes.

O : I'm ready to proceed with the, I thought we were
here just to argue the question of interim restoration
30 that was raised by your Honour at the end of the last
occasion.

HIS HONOUR: No, we may deal with that, but it was also
set down for hearing as well.

35 O : I had no idea that that was the case your
Honour.

40 HIS HONOUR: Well the Department seems to have proceeded
on the basis that that may be so, because further
affidavits have been filed.

O : Yes your Honour. But they were filed, largely--

45 HIS HONOUR: In relation to the--

O : --in relation to the restoration.

HIS HONOUR: All right.

50 O : Your Honour, I'd be in a position to continue,
subject to one thing your Honour. That is, that I would
have thought that your Honour would have benefited from
hearing from who was the Departmental, as
you know, the Departmental psychologist.

55 HIS HONOUR: Well her name has not been mentioned before,
has it?

O : Yes,

HIS HONOUR: I thought you said some female name.

5 O : No, , yes your Honour. He obviously has had a great deal to do with this matter in the past and over the years with the family generally.

HIS HONOUR: Well is he not available today?

10 O : Well I don't think he is your Honour, that's the difficulty. I spoke to Mr whose waiting outside the court and I'll just get some further instructions. He told me before, that he didn't think he was available.

15 HIS HONOUR: All right, well I will leave that matter in the list. There is a part-heard matter that will take precedence, but I don't think there's a great deal of life left in your case. An hour and a half, perhaps?

20 SPEAKER: I'd say an hour and half, two hours at the outside your Honour.

25 HIS HONOUR: All right, so just wait outside for the time being.

APPELLANT: Thank you.

MATTER STOOD IN LIST

30 HIS HONOUR: I will say not before 2.15 in the appeal, the DOCS appeal.

MATTER STOOD IN LIST

RESUMPTION

HIS HONOUR: We will go to the appeal in and the
Department. Now there have been new affidavits. There's
5 an affidavit of your mother Miss ? Have you received
a copy of that Mr O ?

O : Yes I have your Honour. I'd be seeking to
cross-examine Mrs . But the proceedings have
10 reached the stage, on the last occasion your Honour, you
may recall, when Miss the appellant was in the
witness box, under cross-examination, I hadn't completed
my cross-examination.

15 HIS HONOUR: Yes. Very well, well could you return to the
witness box please.

<APPELLANT(2.30PM)
RE-SWORN, CROSS-EXAMINATION CONTINUED

20 HIS HONOUR: Q. ... For the record, state your name and
address?

A. My name is , I live at

25 O : Could the Court be closed your Honour?

HIS HONOUR: Yes, it should be a closed court.

30 O : Q. Miss , you may recall that on the last
occasion I was asking you some questions concerning your
going to a police station and having a conversation with a
police officer, in about November of last year, do you
remember that, do you remember that I was asking you those
35 questions?

A. I've actually been to the police station a lot of
times in regards to a lot of police statements.

40 Q. All right, well I'll be specific?

A. If you could.

Q. This was at 12.15pm on 2 November, or thereabouts,
just before that, just, around about midday on 2 November,
that you went to Police Station, do you remember
45 going there?

A. I did not go there at all that day. I had a telephone
conversation, but I did not attend that, I noticed that in
the affidavit and I really don't know where you would have
got that information.

50 Q. All right, so you've read, have you, the report of
 , which is attached to the affidavit of
 , dated--

55 A. I have read something, which is alleged that your
Department alleges was written and sent by

Q. Is it your understanding that is a

police officer?

A. She is a detective, she is not a police officer, she is a detective with the, which I believe is probably a Federal section of the police service.

5

Q. She gives, she makes a report, doesn't she, where she says, that she spoke to someone from Police Station, a constable who said that you had had, you had stated that certain things, concerning , you've read that, haven't you?

10

A. I've read that document, that you have--

Q. Do you deny that, that you said anything along those lines?

15

A. I did not attend Police Station that day and have a face to face verbal contact with I've already stated, no I did not.

Q. Well I'll be, I, well can you tell us this then, did you speak to any police officer, at any stage, where you said, that would need a bodyguard--

20

A. I had a telephone conversation--

Q. Could you just let me ask the question please? Where you said that " would need a bodyguard 24 hours a day.", did you say to a police officer?

25

A. Yes I did.

Q. Did you say that "Someone would be going to pay for what had been done.", to her and her, you and your girls--

30

A. I have a lot of friends who--

HIS HONOUR: Q. No, just answer the question please Miss ?

35

A. Yes, I believe that I said to her, she will need a bodyguard, yes, I did say that, and I do recall saying that.

O : Q. And you said, that someone was going to pay? Is that right? For what had been done to you and your girls?

40

A. No, I told her she will need a bodyguard, you've asked me a question and I'm answering it to the best that I can, yes, I did state that she will need a bodyguard, because, and I elaborated on, as to why I felt that she would need one.

45

Q. Well you tell the Court why she would need a bodyguard?

50

A. I explained to the detective, because, if anybody and a lot of people who do know me, and my family and have so for many, many years, when word gets around what the Department has tried to pull on me and my family, that, yes, she will require a bodyguard, for the simple reason, I will not be held responsible for her safety, from here on, and I would expect no less to happen to me, if I had done that to somebody else. I have the belief, in do unto others, as others have done unto you.

55

HIS HONOUR: Just hold on there a minute. Thank you.
Yes, do continue Mr O

- 5 O : Q. Now, it was also alleged that you said that you would have someone follow home?
A. I already know where lives, I don't need to have anybody follow anybody anywhere.
- 10 HIS HONOUR: Q. No, did you say that?
A. No I didn't?
- O : Q. It was also said that you said to the police officer, that you would have her followed home, so that you would know where she lived?
15 A. Two filed documents in return of my goods--
- Q. Did you say that or not?
A. No.
- 20 Q. Right, you say you know where lives today, did you know where lived as at November 2001?
A. On or about, approximately about then. Because--
- 25 Q. At or about, you knew, approximately where she lived, is that right?
A. Yeah. As I do where everyone of these people that's probably sit in this room, almost, also.
- 30 Q. You also said, it is alleged, to the police officer, "And then something would happen to her later.", that is to ? Did you say that to the police officer?
A. No I didn't.
- 35 Q. You deny that do you?
A. I deny that.
- Q. You've already, you were saying before the interruption, that you had lots of friends and they, and I, paraphrasing what you said, but they knew what DOCS had done to you?
40 A. Yes.
- Q. And that there was going to be an eye for an eye, and a tooth for a tooth, or words to that effect, that right?
45 A. No, that's not what I said, "Do unto others, as others have done unto you.", is the words that I used.
- Q. All right.
50 A. Thank you.
- Q. Well what did you mean by that exactly?
A. What I mean would be that, I expect, no more that I would do to somebody, than I would have somebody do back to me, and vice versa, I think that is just common logic, I think that's self explanatory.
- 55 Q. What did you plan to do to , or have done to

?

5 A. I planned to have court documents served upon her, in the return of my goods, that she stole, the same day that I believe she inappropriately took my child. She inappropriately took belongings and personal items of mine, which, some of those items, to this day still have not been returned. Which I class as stealing, but because it's a government worker, it's classed as inappropriately obtaining goods.

10

Q. Why would she need a bodyguard for you to serve those documents?

A. Because I wouldn't want to scare the woman, would I?

15

Q. Is that why you say she needed a bodyguard?

A. No, it was just a comment.

20

Q. You see, you said, you were saying she would need a bodyguard, because you were proposing that she may be going to get physically hurt?

A. If there was harm brought about to my child, or my child received any injuries, I would not be responsible, I would just put the word out to a few people who are well aware of my parenting ability, obviously much more than your Department, because you wouldn't have even done this.

25

Q. You didn't say that to the police officer, did you, you didn't say, if my child--

A. I told the police--

30

Q. --you didn't say, if my child gets hurt, I will do something?

A. Oh yes I did.

35

Q. You simple said--

A. Oh yes I did.

40

Q. You did say that did you?

A. Oh yes I did.

Q. Oh I see.

A. And if there was questions about , why was not she brought before the Court also?

45

Q. And so you say, don't you, that your child had been hurt by, while it was in care, don't you?

A. Many times.

Q. And I'm talking about ?

50

A. Far too many times than even should have been allowed to have gone on.

HIS HONOUR: We went into this last time, I don't want to go over it again.

55

O : All right, thank you your Honour. Thank you.

Q. Can I ask you this, you've read the affidavits which

were filed in court recently, you've read those haven't you?--

HIS HONOUR: Perhaps you should identify the--

5

WITNESS: Were they the ones today that you filed, or the ones I was served?

HIS HONOUR: Well I'm just asking Mr O to tell you which of the affidavits are--

10

O : Yes, I will, I will your Honour, I'll just identify them.

15

Q. First of all, if I could go to the affidavit, which is the affidavit sworn by , affirmed by

A. I don't know who the woman is--

20

Q. --and it's an affidavit sworn 25 September 2002, you've read that affidavit?

A. Yes, I don't see what that woman has to do with me, I've never met her, she's never shown me any ID and I don't even know who you're talking about. It was a request to the courts that two particular workers who are named here and the Magistrate agreed that those people could continue doing the work, with me and with gave his word before the court here, when I turned up, none of them were even in the vicinity of the building.

30

Q. Well you see--

A. And have not been since--

35

Q. --she says, says that on 10 September, she supervised a contact between you and ?

A. Did she?

Q. She says that in her affidavit--

40

A. Well I don't know who is, so I can't confirm, or nor deny that, because I don't have any reason to know who she even is.

45

Q. She said that while she was observing you making contact with , that she heard you have a conversation with , where you said, "You'll be coming home tomorrow.", do you remember saying that to ?

50

A. Oh yeah, because that was the, that was just after we'd been to the court here, where the Magistrate had made, he said, actually the Magistrate seemed quite positive of making an interim order for the return of , we were all in this room and I think I heard the Magistrate and what he said, it was only that you asked for another week and instead you've got three. I think.

55

Q. Did you also remember saying, "I'll go and see my mummy now."?

A. Yes I do recall that. She also did that two weeks

prior to that as well, but didn't want to see me, actually pulled the keys out of my bag and tried to open the door and said "Take me home now mummy."

5 Q. You see, and you became upset didn't you, when said that?

A. No, not really, I was a little bit, I mean, I was a little bit bothered, because I had taken my eldest son who the Department has not even let him see his siblings and he wanted to see his sister and it was more so, the
10 distress that it would cause on that child and I was a little bit worried, because she didn't respond to him, like she didn't even know him and he was a little bit taken by that I think. And she, likewise, didn't even
15 know who I was. Bizarre that, isn't it?

Q. Well look, you've read that affidavit, haven't you?

A. Yes, I've read an affidavit by a lady who, yeah, I have read an affidavit.

20

Q. Do you agree that the things that she said you said on that occasion are true?

A. No.

25

Q. Well in that case, do you agree that you said, after said, "I go and see mummy now.", that you said, "Did you hear what she said, she called the other person mum?"?

A. Yes, that's right.

30

Q. "I'm her mother, what are you people doing to her?"?

A. That's right, I don't believe, I've been brought up, I'm not allowed to lie to children, my family never lied to me and I believe that, I would hope that a child in Departmental care would know, not be lied to also, I would
35 find that quite disgusting, that youse would need to resort to such lies.

35

Q. Could you just answer my questions as best you can, "Yes", or "No"?

40

A. More than likely because I disagree with liars.

Q. Can you just answer my questions--

45

HIS HONOUR: Well she doesn't have to answer questions "Yes", or "No", unless they're specifically directed towards "Yes", or "No" answers.

O : Of course, of course.

50

HIS HONOUR: Well you shouldn't browbeat the witness by suggesting that she doesn't have a choice.

55

O : Q. Did you say this, did you say, first of all, do you agree that you began to pack up your things and you said, "If she doesn't want to stay, she doesn't have to.", referring to ?

A. Of course, I wouldn't make my child do anything my child wouldn't want to do, what sort of parent would I be,

to force a child to do anything?

Q. And did you then say, "I know what you people do, you steal other peoples children and give them to people who can't have children."?

A. That's exactly right. I've proof of it too.

Q. And did the person who was in the room with you, say, "I'm not here to argue with you, I'm here to supervise the access"?

A. That's usually the general spiel, if anything's ever asked of, like the child's upbringing, or what's happening with the child's life. I usually get told, "Oh we don't have to answer that. You're here just to, we're just here to supervise."

Q. Did you say "You can't buy children, and buy them toys.", do you remember saying that?

A. I was not meaning it in a phrase where, as in people can't buy gives for people, but the referral I was trying to make is that, like, a bit like the old saying, "I don't care too much for money, money can't buy me love.", but jeez, it's sure damned help from your side of things.

Q. Well are you suggesting that it's, is, in some way has been sold to some people, is that what you say?

A. I most certainly, I was just wondering, I mean--

HIS HONOUR: Mr O , this is no new subject, we went over this--

WITNESS: --yes, I do believe that, that that is what these gentlemen in this room, whether directly--

HIS HONOUR: Just listen a minute. We went into this last time Mr O , I don't think there's any point in re-hashing it.

O : Yes, very well your Honour. Can I just ask this then, just in relation to this affidavit your Honour, because it's a matter of great concern to the Departmental workers?

HIS HONOUR: I'm not stopping you from asking questions about that affidavit, it's only on this particular subject matter that was fully canvassed on the last occasion.

O : Thank you your Honour.

Q. You said this according to the deponent of this affidavit, you said, "I know what you people are up to and I know where these people live and where the carers live and something is going to happen tonight." What did you mean by that?

A. I know where majority of your DOCS carers live actually and I know where majority of your Departmental workers live. If I need, I will run a protest out the front of everyone of their house, it will be a civilised

5 thing. I've got enough DOCS children, which DOCS placed in my care, as I was a carer once, who all now are responding and have offered to go camp on each one of your lawns if you want. Maybe I just look a little different from them days.

Q. It wasn't just the DOCS workers though, it was carers that you spoke about?

10 A. Yeah, I know where carers live as well. Not that I necessarily approve your selection.

Q. Right, were you proposing to go and camp on the carers' lawns?

15 A. I've already had people enter those premises.

Q. You know where the carers of live?

20 A. I know where some carers live, not necessarily the particularly the ones of , but I can find out if I want. I've just chosen not to, for safety. I wouldn't do anything that puts my child at harm, or risk. It's a bit like a man with a gun, you call him "Sir", until he has to put down his gun and realise that there are no weapons that were ever needed.

25 Q. Now you had a contact, you had contact yesterday with ?

A. Yes I did.

Q. And that was scheduled to be one and a half hours?

30 A. An hour from what I presume. The last one has been, the last few have been an hour, the Department writes an hour and a half, so that the Magistrate thinks that, but then, in actual fact, they only really let it go for an hour. Where a taxi arrives conveniently, 25 minutes late, so that there is no choice, so--

35 Q. Well when you say the last two--

HIS HONOUR: Q. Just answer the question please
40 Miss ?

A. It's, I was under the impression it's supposed to be, but none of the access visits actually have, so its hard to know.

45 O : Q. Can I suggest to you that it was scheduled to go for an hour and a half?

A. Oh, right, like the last one?

Q. Do you remember what time it started, yesterday?

50 A. I can't, well, off-hand, no I can't really recall, because I've been flat chat busy doing, probably some of what you lot should be doing.

Q. Do you remember that at about 12 o'clock, that
55 said the word "Daddy"?

A. Yes, she said "My daddy's at work.", and I said, "No he's not."

Q. Well did you say--

A. Who does think is her daddy, can I ask?

Q. Did you say, "You don't have a daddy."?

5 A. No, of course has a daddy. Last time I knew, he was serving time in gaol and I would be very surprised if your, but then again, why should that surprise me? I would be surprised if the child's father, her daddy, actually does have her and that's why I was trying to correct the child, I was wondering if the child's brain 10 may have malfunctioned, like her mother's, that maybe it's heredity, mental illness. The child might be, just, concocting, imaginary sort of people in her life.

15 Q. See, I want to suggest to you that what you said yesterday, when she mentioned the word "Daddy", was, you said, "You don't have a daddy.", and you then threw some blocks away, that you were holding?

20 A. You're a liar and so is whoever wrote that piece of paper and I will challenge them to walk into this room, right now. I know who wrote it and I know who said it, and I'm as sure as heck, that lady didn't write that, it's been an elaboration by, and I suggest, Mr sitting in the corner.

25 Q. And did you say--

A. I voiced my opinion at my disapproval of the child calling anybody, other than her natural mother and father, her mum and dad. I have been a foster parent and I have had children long term, as step children, as well, and I will not ever accept being called mum by anyone of those, because, it is disrespectful.

Q. You've been a foster parent have you?

35 A. Yes, of course I have, I have been placed young people by DOCS.

Q. When was that?

40 A. Jeez, well I started doing youth work in 1983, I, this is now my twentieth year in the welfare field, 1989, 1990, I had probably about, I had eight boys and eight females. I note I worked permanent nightshift in a residential place setting for Youth Refuge, where I worked five, 16 hour shifts a week.

45 Q. But that's not as a foster carer is it?

A. Well sort of, because some of those children, to this day, still land on my doorstep, because DOCS never gave a damn and I'm the one that still puts their hot meal on the table.

HIS HONOUR: I don't think it's much point going into ancient history.

55 O : Thank you your Honour.

WITNESS: Those children still exist today and still do attend my premises.

HIS HONOUR: All right, look, I've said no more of that, because it's too long ago to be of any relevance to what I have to decide.

5

O : Q. You see, I want to suggest to you, that after the comment was made by yesterday, about her daddy, that you in fact became visibly agitated? Would you agree with that?

10 A. Sure, well the guy, I last thought was in gaol, so, I suppose, yes, I would be a little bothered, if her daddy, had all of a sudden appeared.

15 Q. Well is that the reason you became agitated, you thought that maybe he'd appeared?

A. I was a little concerned that, whoa, is this guy getting near to this child and that, is this what your Department wants, or are you hoping that he is some scumbag, so that you can actually give her long term care with these people who can't have children?

20

Q. Well see, it's suggested by the person who wrote this affidavit that, swore this affidavit, that is, by

25

was one of the persons you said you were happy to have as a supervisor, weren't you?

A. Yes, she did turn up at this visit, yeah, she wasn't there at a few of the past visits but, but after we had all agreed, youse didn't do that neither.

30

Q. It was said by --

A. Just the one day before court--

Q. --that you said after throwing the block away, that you said to , "Do they tell you that you have a daddy, who I am supposed to be sleeping with now?"?

35

A. Well I presume a mummy and daddy usually sleep together, don't they? And if this child's associating--

Q. Did you say that?

40

A. --someone by the name of daddy, I'm just wondering are you guys lining me up with a new daddy for when comes home and is he a nice guy, and does he work?

Q. Did you say to , "What sort of a slut do they think I am?"?

45

A. Did I say that to ?

Q. Yeah.

A. Wake up to yourself.

50

HIS HONOUR: Q. No just answer the--

A. And I find you terribly offensive.

Q. Well wait a minute, now--

55

A. Don't you ever--

Q. Miss, Miss , Miss --

A. --ever state that I would speak to my child in that

tone of voice.

5 Q. Miss , would you please remain silent when I am speaking. It's not helping your case one bit to be so voluble?

A. How offensive is that?

10 Q. Well it may be offensive, but it's a question that he's entitled to put to you and which you should answer? (No verbal reply)

O : Q. Did you say that? Did you say, "What sort of a slut--

15 A. Did I answer that question?--

Q. --do they think I am?"?

A. I'm sorry your Honour?

HIS HONOUR: No you didn't--

20 WITNESS: --did I answer that question?

HIS HONOUR: No.

25 WITNESS: I think I answered it--

HIS HONOUR: No, well I don't--

30 WITNESS: --like quite a few times. I think I said, "No".

HIS HONOUR: Well you didn't say "No"--

WITNESS: And I find it very offensive.

35 HIS HONOUR: Q. Look, if you don't stop these--

A. Shall I repeat it? "No" is the answer to that question.

40 Q. --Miss . If you continue to act in this way, I may form the impression that you are not fit to have your daughter. Now, just listen carefully to the questions--

A. I believe that that's already occurred, okay?

45 Q. Well it hasn't. Let me assure you. But you're not helping yourself--

A. I didn't like using the word, don't even use the word in front of me.

50 O : Q. I want to ask you this, did you then take off your lap, where she was sitting, when you had said those words, that I've just--

A. No I didn't, remained on my lap.

55 Q. And I want to suggest to you, that you then said, looking at the observation window, " , what the fuck is going on?" Did you say that?

A. I said to her, "Will somebody please explain to this child, what is a mum and what is a dad? and where the

hell is this garbage coming from?", because prior to that, the child came out with some very inappropriate words. Very inappropriate words, which I was quite disgusted by. Now, not only that, this child is saying other things,
5 isn't she?

Q. What words were they, that the child said Miss ?

10 A. "Fucking", something or other, and I said "I beg your pardon?", and she just looked at me and she stopped. And I said, "That's not very nice to say those sort of words is it?".

15 Q. It's suggested that you said, after saying, "what the fuck is going on?", you said these words, while was in the room, "What shit are you fucking telling her?"?

A. I, no, actually towards the end, I just turned around and said to them, let me recall back, I said to her--

20 HIS HONOUR: Q Look, you're just asked whether you said those words?

A. I can't recall, I'm trying to think.

Q. All right, well--

25 A. I know there was some heated discussion--

Q. --if you can't recall, just say "I can't recall"?

A. --because I was quite angry at what had gone, I can't recall.

30

O : Q. And I want to suggest to you that after saying those words that came into the room?

A. I asked to enter the room.

35

Q. And she says that when she entered the room was very quiet and she had paled in complexion?

A. Oh jeez, so you're sure she wasn't blue as well? Because I'm sure she was very terrified, as burst through the room, in such enormous anger and frustration.

40

HIS HONOUR: Well, just wait a minute, just hold it a minute, what was the question?

O : Q. The question is "Do you agree, that was very quiet and had paled?"

45

A.. was sitting on my lap with a toy in her arms and quite chattering away. But she could've been very startled and frightened by the way the DOCS worker did burst through the door, because it does make quite a loud noise, when it comes through, so maybe, did frighten the child as she burst through the door. You could be right, maybe she, you're probably right.

50

Q. See tried to settle you down, didn't she, she tried to say "Look, let's talk about this later . Let's finish the access and talk about this later"?

55

A. Did she?

Q. Didn't she?
(No verbal reply)

HIS HONOUR: Q. Well do you agree with that or not?

5 A. No she didn't, no.

O : Q. Do you remember saying to her, "Do you have children?", and asking her about her own children?

A. Yes, I did.

10

Q. And she said she did?

A. She said, "You already know I have children."

Q. All right. She, says that you--

15 A. Because she gave me a long conversation last week.

Would you like to know how I know she has children?

HIS HONOUR: Q. No no no, you're not asked that. We'll be here until Christmas--

20 A. Okay.

Q. --if you continue rambling on?

(No verbal reply)

25

O : Q. Did you then say, "I'm not upsetting her.", referring to , "Your fucking Department upset her, what shit are you telling her?"? Did you say those words?

A. No, I don't, no I don't think I did say those words.

30

Q. You don't think you did?

A. I do, well I don't have to tell you actually what I did say, but no, you're wrong.

35

Q. Well, please do tell us what you did say, what you say you said?

40

A. What I did say to her was, I asked her, I said "Do you have children?", she said "Yes", I said, "Well obviously you care about your child don't you?", she said, "Oh" and looked at me as if, that's a stupid question, I said, "But it's funny to accept that somebody else might have feelings for their child, but youse just don't care.", I said, "And it's about time that your Department does start taking a look at things, looking at what you're doing to other children?", I said, "Because it's not nice.", until her child was in a hospital bed last week, then she finally realised, that, "Oh, other people maybe do care.", and that was what I said to her, as I walked out of the room.

45

50

Q. See, she said to you, "You're upsetting , didn't she? She said that?

A. She was upsetting , yes, because--

55

Q. No no, please, just answer the question--

A. -- and I were quite happy sitting there--

Q. --my question is--

A. --she entered the room, no, was fine, until she

entered the room, yes, and then she, had upset
 It upset me and yes, because of the emotional bond is so
 thick between myself and my child, which usually does
 happen with breastfed babies, that, yes, the child did
 5 show, sort of, probably, yes, because was reaching
 out to grab her and pulled, pulled back, as if to--

Q. I want to suggest to you that--

A. --to hold on, into my arm.

10 Q. --that said to you that was becoming
 frightened?

A. She was frightening her, by trying to grab her and
 kept nuzzling under my arm and had one arm around my
 15 back and she pulled into me, to cuddle into me to stop and
 kept reaching out for her, and it was only when I
 pushed forward, had no choice but to go to
 her, because if I don't give her to you and if grabs
 hold of me, your Department would insinuate something,
 20 probably perverse.

Q. You then said, after went to , you said,
 "This is fucked, I know where you all live, bad is going
 to happen to all of you."? Did you say that?

25 A. No.

Q. And she said that--

A. She's aware that I know where all youse live, every
 DOCS worker does know.

30 HIS HONOUR: Q. No no, look, please Miss , you're
 not asked that. You've already told us that about
 three times?

(No verbal reply)

35 O : Q. And then you had, then there was a
 conversation where suggested that she wasn't scared
 of you, do you remember her saying words to that effect?

A. Yes, because she was getting quite threatening.

40 Q. She was getting threatening was she?

A. She was quite obvious with what she says, very
 cautious as to try and nail me and set me up for something
 that youse could dish out for today, so that she would
 45 come out looking wonderful, as youse have done every
 other, every other time, and there's not a damn thing I
 can do about it, or prove it.

Q. She says that you then kicked a pile of mega blocks
 across the room, did you do that?

50 A. No, not that I recall.

Q. Do you remember seeing?

A. Actually, I usually pick up the stuff on the floor,
 55 and I've had to pick up many things off the floor, even
 when I enter the room, because the floor is filthy in the
 building.

Q. You know what mega blocks are, I take it, do you?

5 A. I think you might have to jog my memory. Are they like little Leggo blocks, but a little bit bigger? And they're lots of bright colours, and they're red and green and blue and I think that's what a mega block is, and they come in a plastic bag and there's about, maybe a 100 blocks in a bag. Is that the same mega blocks bag that you're meaning.

10 Q. Yes?

A. Okay.

Q. Do you remember seeing those on the floor?

15 A. I remember seeing that bag of mega blocks, yes.

Q. You don't remember kicking them?

20 A. No. But, it wouldn't surprise me if I'd trodden on one, but then you would insinuate that that would be kicking them, because they're quite large and there's so many in this bag, that they're all of the floor, so, maybe, if I put my foot down, chances were, you would, more than likely step on a mega block. But, stepping on a block and kicking a block, I mean, obviously, there's a translation problem in, like a block, stepping and moving a block.

25 Q. Can I ask you this Miss , do you consider, you've heard evidence, haven't you, that, of your borderline personality disorder, you've heard evidence about that?

30 A. Which your Department created.

Q. You've heard evidence about that, haven't you?

A. There is no real evidence about it, fullstop.

35 Q. Right, you don't--

A. You convinced, or you weren't going to pay Dr bill, if he didn't write it and maybe we should have Dr come in, because I'm sure he could confirm that too.

40 Q. Right, so, are you suggesting that Dr only suggests, said that you had borderline personality disorder--

45 A. He told me, he said "There's nothing at all wrong with you.", and I said, "I know, but you have to write something.", he said "Why?", I said, "Because the Department won't pay the bill." He rang the Department, the Department said, "Make her pay with it, with Medicare and if it continues, he will have to send them a bill." 50 and they said "Well we don't know if we want to pay the bill, it depends what he writes.", and he said, we stood for 40 minutes one day, into one of my doctor's visits, for that simple reason, because DOCS didn't want to pay for it unless Dr wrote what the Department wanted 55 him to write. Which I would call manipulating words.

Q. But you don't agree that, you don't agree that you have any borderline personality disorder, do you?

A. No, no, not at all. I think I'm a very funny person actually.

Q. A very funny person?

5 A. Yeah, I'm hilarious, my friends think I'm very funny and I'm--

10 Q. Well I want to suggest to you, I want to suggest to you, that you can be a very angry person Miss , what do you say about that?

15 A. Oh, if a child molester goes near my child, of course, I am furious. It makes my blood boil. I mean, you, all right, maybe I'm different to all you guys in the room, maybe it doesn't really worry you, like, but for me, I find that, I get very, very upset by that sort of thing, yes, and I can voice my opinion about it, and maybe sometimes I don't do it in the right way. I thought going to your Department, you may have been able to prevent some of those things. Your Department didn't want to do anything about it, you just gave them more, instead, next time I'll know, go to the media, don't even bother with your Department...

25 Q. You see is just over two years old now, born on , that's so and she'll be going to school in a couple of years, won't she?

30 A. should already be at school by now, she should be having day care by now, which actually should have been started about eight months ago.

Q. Well who said--

35 A. Because my child had already been taught so many things, at home, because I spend all time, basically, my children's education is the most important thing to me, so I sit at home and I spend a lot of time with them, my children are usually well prepared to go to school, way before the age of two, as they need that other children contact and the stimulation of being around others.

40 Q. You said, I think, on the last occasion, or at some stage in the past that was able to read at the age of nine months?

45 A. Yes. She did that in front of the DOCS workers too, because I knew youse wouldn't believe it.

Q. No, what was she reading at that stage?

50 A. She was reading, she had a series of books, which I had purchased for her and I have several books there at home, which she knew, each one of those books, she wasn't even walking and I said to the DOCS worker, "Is there something wrong?", and they said, "We think her educational needs might not be being met." and I said, "Oh", I said, "Well you'll be quite astounded to know that the child is reading already then, wouldn't you?".

55 Q. Now when you say "She was reading."? Do you mean that she was looking at the book? And she was turning over the pages and reading the book to herself?

A. Do you know what reading is?

Q. Could you just listen, please--

A. Reading and literacy or comprehension--

5

Q. --Miss , if you just listen, let me finish the question?

10

A. Well reading is actually looking at a book, opening the pages and following the words, and speaking the words out aloud, is reading in my opinion.

Q. Well she was reading out aloud was she?

A. Yes, of course she was.

15

Q. So she actually was able to, obviously able to speak at the age of nine months?

A. Of course she was.

20

Q. When did she first start speaking?

A. Oh, about seven months.

Q. Seven months?

25

A. But it may have even been sooner, she was very, very advanced, because I read to her constantly, that's all we used to do. I don't, my children and all my children will tell you this, television is very rarely ever on in my house, I'd prefer not to even have one. My children aren't really, they're not, it's not that they're not allowed to watch TV, it's just that it's just not a done thing in my house, we just, we have other ways. I'm an artist, we draw, we paint, we create, we make things, we read.

30

35

Q. Now, when you had the care of and , I think that you had concerns didn't you about paedophiles in the district, from time to time, places that you lived?

40

A. I stated, no, that the people, that that matter is before the Court, before, another matter with the police at the moment. And I tried to let your Department know of that information at the same time that the police knew, so that at least your Department may be able to check, as I found out that one of the perpetrators had gone on to commit seventeen more offences, had I of said something sooner, so I felt a little guilty, that maybe I should have done something sooner. So instead, what I did, was let the cat out of the bag, on every single one, so that maybe, someone could intervene, before any more victims come to me as victims support and we're no longer victims to that same perpetrator and I was hoping to have the Department there to do that, but, like people said to me, "Don't try it, because they, you'll be quite surprised, at what really does happen."

45

50

55

Q. Is it the case that you changed your address on a number of occasions, because you feared that there were persons in the area who might be hurting your children?

A. No, no, no no, just, oh no, no, circumstances of life, I lived in a Department of Housing house and I met a

gentleman and we decided that we would buy a house and we moved to where we bought a 100 year old house and we restored it and the children always wanted a playroom, where they had a playroom and all their electronic cars and things that they had, and it was only then, after a relationship deteriorated because of, DOCS kept, DOCS started landing at my house, I'd never had a problem before and all of a sudden, my relationship just went, it fell apart and we were actually supposed to be getting married and ..(not transcribable).. I don't know whether it was just coincident, but, I've since seen, the way the Department does things and yes, I do believe now that I look back, the Department was more than responsible for that. The Department's first involvement with my case was, they came about my eldest daughter --

HIS HONOUR: Q. Well look, you're not asked about that--

A. --who'd got a blackeye--

Q. --you're asked a question and--

A. Yeah, okay, and then I moved, I got a house and--

Q. How many times did you move?

A. I, well--

Q. Well let's work backwards--

A. --since when?

Q. --how long have you been in your present house?

A. I've been there for nearly three years.

HIS HONOUR: Well I don't think we need hear more about that.

O : Very well your Honour.

Q. Are you seeing and at the moment? Do you see them from time to time?

A. No, your Department stopped me, but been sending messages with friends of hers because she's been badly burnt and she's been trying to ring her mum and I sent my friend back and she said, "What do you want me to tell her?", and I said, what can I say?

Q. Well I want to suggest to you, that that's not the case, that the Department hasn't stopped you from seeing those children?

A. You took out a Court order, we're all sitting here, yes you did.

Q. Well that was in--

A. Excuse me?

Q. --relation--

A. Excuse me? I've got the paper work and it is in some, actually, no I don't have it on me at the moment, but yes, your department did stop the children from seeing me.

Q. You see, I want to suggest to you, that you can see
at any time--

A. My children would've walked miles--

5 Q. --that wants to see you?

A. What?

Q. I suggest to you, that you can see at any time
wants to see you?

10 A. Oh really?

Q. Yes?

A. That's a blatant lie and you know it. I'm not allowed
to see the children until they turn eighteen years of age.
15 I had Family Law Court Orders dated , the very
next day I was threatened by, I don't know whether it was
a DOCS worker, she alleged she was a DOCS worker and said
if I didn't sign the children over to my brother, I would
never see them again. I feared for the children's safety
20 at that point. I signed the document. And I thought,
well if my brother can get them, they will be safe. I was
told the children would be returned in eight weeks. I've
never seen, I've seen the children maybe twice since. The
Family Law orders were made in this court, those men were
25 not to go near those children. Your Department, in the
Children's Court at , gave those men the
children, even though you were aware that there was a
Family Law order, dated, only the day before I was
threatened by your Department.

30

Q. Anyway, you're saying to the court, that there will be
no problems with you having back, so far as you're
concerned?

A. No, not by any means, was a very well loved,
35 very happy, very content, very, almost text book child.
She was, she is, and is a very beautiful child, very happy
and--

Q. And you wouldn't--

40 A. I've never seen a child more happy and more content.
I could never, my only way to describe what your
Department has done, is--

HIS HONOUR: Q. Well look, well you're not asked about
45 that, we've heard your views on the Department? At
length.

(No verbal reply)

O : Q. You don't see it, in any way, as being
50 necessary for you, to seek any sort of therapy?

A. For what, in particular?

Q. Well for--

A. For my sarcasm, or for my--

55

Q. --personality disorder?

A. Personality disorder?

Q. Borderline personality disorder?

A. Is that the one that you got Dr [redacted] to write, or you weren't going to pay him the bill?

5 Q. For anything at all? Anything to do with your personality, do you see that you need any sort of help?

A. I've got a great personality, I bet you I've got more friends than you. I've got a lot of friends and a lot of people love the person who I am.

10

HIS HONOUR: Q. Miss [redacted], on that question, there was--

A. I don't think that there really is anything wrong with my personality.

15 Q. There was a suggestion you were going to see somebody at [redacted], has that happened?

A. That's over the sexual assault, and yes, that's been booked in for 16 October, they've now decided to take me on as a client, but I mean, if there's something wrong with my personality, then that's just a matter of your personal opinion I think, because I don't particularly like you and you obviously don't like me.

20

O [redacted]: Q. Miss [redacted], do you recall hearing Dr [redacted] saying that she thought that you were actually having continuing contact with a psychiatrist, remember she gave that evidence in the Children's Court?

25

A. No she didn't. She knew she hadn't, because she contacted Dr [redacted], if you care to read back through your paper work, she states that she contacted Dr [redacted], she also contacted Dr [redacted] at the [redacted] Medical Service and she also had made contact with [redacted].

30

When she spoke to Dr [redacted] in a brief conversation with him, actually she said it wasn't a brief conversation, it was quite at length, she stated to him that he told her, "I don't really need to see her any more, I really couldn't see anything wrong with her, and I really didn't know why she was here.", which is the same thing that Dr [redacted] told me when I turned up to see him in the first

35

place. He asked me, he said "Do you have a referral?", I said, "I couldn't get one.". I had to go to four doctors to get a referral, because everyone of them said, "We can't just send you there, if there's nothing wrong with you.". One of them stated, "It's like sending you to a gynaecologist to give birth and blah, blah, blah, even if you're not even pregnant. We wouldn't send you there.", he said, "I can't", I was turned away from three doctors, because no one thought there was anything wrong in the

45

first place that warranted it. It was just a personal opinion which I found quite disturbing that your Department, I think, where it come from, it started, a name being called from one of your Department workers at me, she told me I was psychotic bitch and she was overheard by an off duty police officer, who because he caught her, she had to carry on the little charade--

50

55

HIS HONOUR: Q. All right, now look, just stop it for a minute. Look, it will help me decide this case, if you

simply answer questions shortly?
(No verbal reply)

O : Q. And Dr , I think, agreed with a question
5 that was put to her in her examination before the
Children's Court Magistrate, and the question was put, in
this form:-

10 "Your assessment of Miss in relation to her
ability to care for , is going to be dependent
on restoration of, or reinstatement of therapy with
Professor and a number of external supports in
the community.", to which Dr answered "Yes".

15 You remember that being said?

A. I don't have the paperwork here, I do recall
conversation where she said that, your workers put to her,
no no, hang on, this is a twisting of words thing, if I
20 can recall and actually I think I'm going to be right here
again. You said to, your little lady, next to you there,
stated to Dr , "Oh but don't you think she should--

Q. You're talking about my instructing solicitor are you?

A. I just do not know her name, so I just cannot recall
25 your little friend there.

O : For the record, I think that the reference is
being made to my instructing solicitor your Honour.

30 HIS HONOUR: Yes.

WITNESS: I just can't recall the ladies name. Anyway,
she sat there and she was pursuing the matter and sort of
pushing Dr to, wanting Dr to say something,
35 because you knew the Department needed something. They
were starving, in a way, to be able to try and get
something, to be able to get away with what youse did.
Now, I do recall her saying and she said, "Okay, usually
people with personality disorder, what can be done.", they
40 said "Those people can go to different services." and they
said, "Would benefit from something like that?" and
she said, "That's a possibility", she said, "But not all
people benefit from group therapies, or certain things.
It's a difference of about, what necessarily is good for
45 one, is not necessarily good for another.", and that's
pretty much--

HIS HONOUR: All right, right, we've heard enough of that.
But, I notice Dr in her report said, that she agreed
50 with Dr that "Whilst Miss meets the DSM
criteria for borderline personality disorder, but while
this reflects an unenduring manner of functioning, it does
not provide grounds for the refusal of custody."

O : No, that's right your Honour. But she said in
her examination--

HIS HONOUR: Well maybe, but you should put the thing in

context.

O : Well, your Honour, I was leading up to this question. "Do you, or do you not agree that you would benefit by having some therapy with Professor , or some other psychiatrist?"

HIS HONOUR: I think it's Dr

10 WITNESS: Well I went there and it didn't do anything for me. Like.

O : Q. Well you say "No", is that your answer, "No"?

15 A. Well I've noticed--

HIS HONOUR: Q. Miss could you sit back, could you just on a point of, for practical consideration for the transcriptionist, you're sitting too close to the microphone.

20 A. Oh, okay, sorry, I was getting lazy and I'm leaning, sorry.

Q. And you've heard of blasters?

25 A. Yeah, all right.

Q. Well just sit back a little bit please?

30 A. Okay. I, I'm actually, I think I'm getting the therapy I need at the moment. We have quite a lot of, some of them are only fourteen year old victims, recent victims of abuse--

Q. But who are you getting therapy from do you say?

35 A. We sit in a group, we have, like, we have group discussions at my place. We have, I have group where there are other victims of child sexual abuse and we meet, probably twice, three times a week now. Their mothers are even coming along to our little potatoes by the bonfire and guitars and I've got friends who are very talented, we pull them all together to try and, we've got one who has got proceedings before the court at this point of time and it helps her, it helps me and it helps all of us. Sitting down talking to Dr , I don't really know him and I think it's, I mean, I'd rather speak about my things, to me, I like to choose who I'd like to speak to and who I feel comfortable with. And I have a group of people who I feel quite comfortable with. I'm a little further down the track than they are, so I think we can probably all benefit from each other and what we've got to share, what we've got to talk about.

O : Q. It's some sort of self help group is it?

45 A. To a point, well that was not our intentions, but it's turned to be that way.

55 Q. All right, do you agree or disagree with the suggestion that you would need some surveillance and some community support, if the child were to be returned to

you?

A. Surveillance, can I ask you what you mean by that?

5 Q. Well, do you think that it would be necessary, for instance, for DOCS workers to call on you every now and then to see that everything was going all right with

?

10 A. I've already said that, I don't mind, and I've actually, apparently I didn't do it, he was asked by the Magistrate to find out, when I named two workers which I have a great rapport with, I, I rang her myself and I asked her, and I said, "Has asked you about, blah, blah, blah?" and she said "No.". And I said, "Well the Magistrate asked him to ask you if, 15 if you two are able to fulfil that role, if need be, that those two enter my yard.", and her and and she said "I would be more than happy to be those, that." She said she was more than happy to do that she said, but did not ask her and I said, "He was requested by the 20 Magistrate. I was here", I said and I just thought I would ask, just to double check, for my own knowledge, before we come back before the Court. But she was too happy, only to happy to and I agree.

25 Q. But they wouldn't be allowed into your house would they?

A. Is there a need, they want to go into my house? Like?

HIS HONOUR: Q. Well what's your answer to that?

30 A. Just, I would prefer, probably not, because I have victims call in to my house, I believe, I only want victims of crime are allowed in my house and welcome any time. People who have created some of that trauma, I'd really, I'd really rather them not, but, I would meet 35 them, I would be quite happy to bring into their office, as what's been going on.

Q. If you had no choice about the matter, what would you say?

40 A. If they have a court order and there is no choice and there is a court order which is dated that day, and they're allowed to come, go through my doors, so be it.

Q. Now, if the court stipulate--

45 A. --I, I, will not argue with a court order--

Q. --no just listen a minute please. If the court stipulated that they were entitled to visit your home, say 50 once a week, or more often, if thought to be necessary, would you let them into your house, if the court directed it?

A. As long as its not an intrusion of my privacy, or it does not disturb my child.

55 Q. Well it's nothing to do with your privacy, it's to do with best interests?

A. Well it is. Well it sort of is--

Q. That's the primary concern--

A. --because wanted to do a little bit more when he entered my home--

5 Q. --just listen a minute, that's the primary concern of the Court, best interests and what I'm wanting to know is, if you're prepared to abide by what the court directs in relation to best interests, in the form of allowing the welfare people into your home, at least

10 once a week?

A. And how long would that be for?

Q. Well, until they decided it was no longer necessary, if that were the case?

15 A. Yep.

Q. There's no use saying "Yep", unless you really mean it?

20 A. Well they can walk, my door is actually never locked, so they can, by rights--

Q. No no, no--

A. --they can actually walk in there any time they like.

25 Q. --that's not the question. The question is, what's in the best interest of and are you prepared to facilitate?

A. If the Department feels that they need to come through my doors every week, then so be it.

30

Q. All right.
(No verbal reply)

O : Thank you your Honour.

35

HIS HONOUR: Do you have any questions Miss P ?

P : I'll just be quick.

40

Q. The two people that you would feel comfortable coming into your home is and ?

45 A. I did, until I believe that there's been lies told today in some of that paper work, and I am a little disappointed that would reduce herself to some of the lies, not just , but some of the other affidavits, yeah. But, hey, it's going to happen, they're probably no better, no worse, they're all tarred with the same brush, no different.

50

Q. You realise that if an order is made by the Court that a DOCS officer is to come into your home, you realise that you would have to abide by that?

A. I'm aware of that, yeah.

55

Q. And you think that--

A. I've never not let them in my house, except for once, when I had somebody else's children in my care, but it's not my place to let anybody else near somebody else's

children that I'm looking after, that was the only time I didn't let them in once before.

5 Q. Just let me ask you this, about two years ago, you had a good relationship and rapport and a great admiration I think you've said, for the Departmental workers?

A. Majority of the welfare workers are all I've ever known.

10 Q. Do you recall a

A. Yeah.

Q. Who was he with?

15 A. Him and I were colleagues. I believe he's now working for Parole and Probation. We worked together at a youth drop-in centre where we'd look up to, like 140, up to 160 children a night.

Q. Or would that be a fortnight?

20 A. No, that was every night. There was only two of us, we used to run the only youth program in the area, the nearest one was sort of or--

Q. All right, so how old were you then?

25 A. I started there in 1983 and I worked right up till 1987, '98, sorry, about ten years--

HIS HONOUR: Where's this going Miss P , it seems like ancient history too?

30

P : Yes. I thought she was going to tell me something else, that's all right.

35 Q. Now in relation to Mr O who has questioned you at length about your threats to certain people?

A. Yeah.

Q. Can you tell me whether you have ever been charged with a criminal offence of assault?

40 A. No, never, I've actually never hit anybody. I did hit somebody once, but it wasn't like, it was only a defence thing and it certainly was not something where I was charged or anything like that.

45 Q. So, would you--

A. I can be very verbally angry, if I really, if an injustice has taken place.

Q. Now, you say you have an appointment on 16 October?

50

A. Yep.

Q. With ?

A. Yep.

55 Q. Do you know, at this stage, what it is that they will be covering?

A. I'm not really sure, all I know is that it's a counsellor and I just guess, I go to sit there and they're

going to tell me why I'm a lousy parent, well, why I, I assumed it was over my parenting abilities, because these guys say that I'm not a good parent. But, I was under the impression that the counsellors were there to, more so deal with the assaults that have occurred on me.

5 Q. When you were a child?

A. Yeah.

10 Q. Is it true that one of the fathers of the child, I think it might be , actually, sexually assaulted you when you were thirteen?

A. That's right, yeah.

15 Q. And that's what--

O : I object, what's the relevance of this--

20 WITNESS: --but, but I've been stopped by the Department, the Department made threats against , as to, and I had to drop them.

25 O : --I object your Honour to this evidence. What can, possibly, how could this possibly help your Honour?

P : Your Honour--

O : And the man's not here to defend himself.

30 P : Your Honour.

HIS HONOUR: Yes.

35 F : My friend has cross-examined Miss extensively about her allegations and carry on about paedophiles. Now--

HIS HONOUR: Well you did raise the matter Mr O

40 O : Well, I didn't raise the matter, the witness has raised the matter on a number of occasions your Honour, in her convoluted answers to my questions. Now, it's not a matter where these matters can be raised. I'm only here, I'm, this objection is simply to protect a person who is
45 not in Court, who is not a part of these proceedings and where the answers can be of no relevance. Your Honour has already said, why are we looking at any --

50 HIS HONOUR: Well indeed, I still adhere to that Miss P . I mean it has been raised, but I don't know if it is really going to assist me hearing more about it. It's been raised before.

55 P : Q. Just lastly, Miss , could you tell the Court how you have been feeling and dealing with the situation of having taken from you?

A. --

O : Well your Honour, I object to that question too, because--

WITNESS: I can't answer that?

5

O : --what's, I object to that question too, on the basis--

10

HIS HONOUR: Well first of all it's very broad and I think we can tell the effect that it has had on her.

P : Yes. It's just--

15

HIS HONOUR: And it's been the subject of a good deal of evidence from experts.

20

P : Your Honour, as is always the case with these care matters, there's affidavits served with damning allegations in them at the eleventh hour and nobody has a chance to really address the things that have been said.

25

HIS HONOUR: Well, that's not correct, because there can be procedures adopted to ensure that they can be addressed. I'm aware of what you're saying, but the Department is entitled to put further material before the Court and you and Miss are entitled to test it, by calling those various people as witnesses.

30

P : I have nothing further your Honour.

HIS HONOUR: Yes, you may stand down Miss .

<NO RE-EXAMINATION

35

<WITNESS RETIRED

HIS HONOUR: Now Miss , I understand that you have filed an affidavit by your mother.

40

APPELLANT: Yeah, I don't have a copy of that affidavit, as yet.

45

HIS HONOUR: Well I have a copy of it and my associate will arrange for you to have a copy of it. But I understand the Department wants to cross-examine your mother.

APPELLANT: Yeah, she's present.

50

HIS HONOUR: Is she here?

APPELLANT: Yeah, she's been outside waiting.

55

HIS HONOUR: All right. Has the Department got, has anybody got a spare copy of Mrs affidavit?

O : I only have the copy that I'd be using your Honour, I'm sorry.

P. : I can let her have a copy your Honour.

5 HIS HONOUR: Thank you Miss P . We will call Mrs

< (3.27PM)
SWORN AND EXAMINED

10 HIS HONOUR: Q. Now, could you state your full name and your address please, for the record?

A. Okay, my full name is and I live at

15 Q. And you're the mother of the appellant in these proceedings?

A. Yes.

20 Q. And you've sworn an affidavit dated 24 September of this year, in which you express certain opinions about your daughter's suitability to have restored to her care?

A. That's right.

25 HIS HONOUR: Do you have any further material from the witness Miss ?

APPELLANT: I'm sorry your Honour?

30 HIS HONOUR: Do you have any further questions of your mother, in chief?

APPELLANT: I've just read the affidavit, no, not at this point.

35 <CROSS-EXAMINATION

O : Q. It's Mrs , or Miss ? Sorry?
Mrs ?

40 A. That'll do.

45 Q. Thank you. Now you've, the affidavit that you swore yesterday, I think, or the day before, has the general effect of being an affidavit where you're saying, you are lending support to your daughter?

A. That's right.

50 Q. And that you would be prepared to support her, if were to be returned to her?

A. That's right.

Q. First to fall, can I ask you this, you live fairly close to your daughter?

A. Yes.

55 Q. How far away?

A. Walking distance, probably, five, six, ten minutes, probably, no more than a kilometre anyway.

Q. How long have you lived were you are presently living?
A. 1968, so, long time.

5 Q. And Miss has been living there you'd agree for
some three years or so, is that right?
A. Yeah, yes.

10 Q. Is it the case that you have had periods where you
haven't got along particularly well with your daughter?
A. I'd have to answer yes to that.

15 Q. Would you agree with the proposition that at times,
your relationship with Miss , it fluctuates?
A. It used to.

20 Q. The level of support that you would be prepared to
give, from time to time, has fluctuated?
A. In previous years, yes.

25 Q. And has that been largely brought about by your
feelings about Miss emotional state from time to
time?
A. I'm finding that one hard to answer. Is there another
way you can put that question?

30 Q. All right, all right, I want to suggest to you, well
I'll go straight to the point, that in October of last
year?
A. Yes.

35 Q. A little under a year ago, you had a meeting with a
Mr who you see in Court today?
A. Yeah.

40 Q. And also with , do you remember being at
that meeting?
A. That was directly after was taken from my
daughter, that one?

45 Q. Indeed, yes, that's right, yes?
A. Yes I can remember there, being there.

50 Q. Do you remember that on that occasion, they spoke to
you about whether you would be prepared to support
Miss and offer her some support?
A. I don't remember that, exactly being said, but I can
remember a conversation.

55 Q. It's suggested and I'm reading from the affidavit your
Honour, at the moment of , which was sworn on
28 February, it was suggested by her that you acknowledged
the reasons for the Department's action in taking
away from your daughter? Would you agree that you did
acknowledge the reasons. In other words, did you agree
that what they did on that occasion was fair and
reasonable?

A. I could understand, when they explained to me why they

took her, that's fine, but I don't say that I agreed with it.

5 Q. No, all right. Do you agree that at that particular point in time, that Miss _____, that is your daughter's emotional state was unstable?

A. I don't think, no, I don't think it was unstable.

10 HIS HONOUR: You mean at the stage that _____ was removed?

O : Yes, well, in October of last year?

HIS HONOUR: Yes?

15 O : Yeah.

Q. You didn't think it was unstable?

A. I don't think it was unstable, the only time it was unstable is after she was taken.

20

Q. All right, okay. Did you find at any time, either, well, we'll go, look at October, were you at all scared of your daughter?

A. Scared?

25

Q. Yeah?

A. No.

Q. Have you ever been scared of her?

30

A. No.

Q. Very well. Now, after _____ was removed from your daughter's care in October?

A. Mm.

35

Q. You agree that you maintained fairly regular contact with _____? Did you keep in contact with her?

A. No, not, not very often.

40

Q. Did she phone you from time to time?

A. There possibly would have been a couple of phone calls, but not on a, definitely not on a regular basis, no.

45

Q. Do you remember her phoning you and asking whether you would be able to accept some sort of role, some sort supporting role in relation to your daughter and the Department's case work with your daughter, in other words, some sort of intervening role, do you remember her saying something along those lines?--

50

HIS HONOUR: When was this said to have taken place?

55

O : In October 2001, or thereabouts, just after that period.

HIS HONOUR: Before or after the removal?

: After the child was removed.

HIS HONOUR: Q. Do you understand that?

5 A. Yes, yes. I can remember a conversation, I don't know
whether it was by phone, or at that meeting we had. There
was, I'm just trying to remember what, what was actually
said. At the time, yes, I said I would try, if I can
remember rightly, to get her and myself to go to a meeting
10 with them and I did try, but, my daughter was a bit upset.
at the time over it and I didn't succeed. If that's the
one you're talking about.

15 O : Q. All right, yes, that is indeed. So, I take
it that from what you're saying, you said you'd see what
you could do, you went away, you spoke to Miss and
then you came back and said "No I can't help you."?

A. I can't, I just couldn't get her to come with me.

20 Q. It was suggested that you said to Miss , and this
was suggested by Miss , you said to her, "Look, I
can't help you, the reason I can't help you is because of
the fragile relationship that I have with my daughter at
the moment.", or words to that effect, you know, your
relationship was not particularly good with your daughter?

25 A. I don't think I meant it that way.

Q. all right?

30 A. It was fragile, only for the simple reason I was
tyring to be, what's the word I'm looking for?

HIS HONOUR: Q. Mediator between her and the Department?

35 A. Yeah, mediator between the person and I mean
was very upset.

40 O : Q. Did you have any fears of any repercussions
that may have flowed from your daughter to you, if you
did, sort of step in and act as an intermediary of some
sort?

A. No, I don't, I don't think so.

45 Q. Did Miss ever blame you for what had happened in
relation to ? That is, after was removed, did
she ever say to you, it was your fault?

50 A. Okay, not actually, in, not personally to me, but she
said somebody, somebody was, she was obviously trying to
look, put the blame somewhere. But she didn't personally
say, "It was you, you've caused it.", or anything like
that, no.

55 Q. So when you say "somebody else", do you say that she
was blaming somebody else, or she was telling somebody
else that she was blaming you, is that?

A. No, she; I think she was trying to find a reason why
and it must have been somebody else involved, you know,
that's what I mean.

Q. Do you remember saying to Miss , that
you would not be able to give your undivided

attention and support, because of work and personal commitments?

5 A. No, I, what I said was, I think that was in a conversation with, whether I was interested in taking care of , permanently, or, you know, at that stage, which was a 24 hour job and I'm sorry, I'm not in a position that, I'm not financial enough to just give up work, I'm sorry and I said "No I couldn't do it.", if that's, that's what I meant and I'll probably still stand by that.

10 Q. Right, so you're suggesting that when you spoke of not being able to give undivided attention, you meant that Miss had suggested that you might actually take over the full-time care of , is that right?

15 A. Well yes, as the extended family, yes.

HIS HONOUR: Q. You describe yourself in the affidavit as a supervisor, where do you work?

20 A. I work for --

Q. At?

A.

25 O : Q. And that's a full-time job you have, I take it?

A. It's a full-time job with yes, and I work very early hours of the morning, until I finish my work. And then I have the

30

Q. Can you tell the Court, when, the last time that you actually saw ?

35 A. The last time I saw was at her sister birthday, in, oh my goodness, brain's gone, August, yeah, no, it's not August, I've forgotten when her birthday is, sorry.

Q. Was that this year, or last year?

40 A. This year, this year.

Q. Where was that at?

A. At : home.

45 Q. At her father's home, is that right?

A. Yes.

Q. And was there?

A. Yes.

50

Q. Who brought to the house?

A. Her carer.

Q. Did you see and was your daughter there as well?

55 A. No.

Q. When was the last time you saw with your daughter?

A. with the daughter, was the day that she was taken.

Q. You were there on that day?

5 A. Yes.

Q. You remember the police were there?

A. Yes.

10 Q. A number of police officers were there?

A. Yep, yes.

Q. I take it that at that particular point in time, you being living quite close, you were seeing your daughter and on a fairly regular basis were you?

15 A. Oh yeah, yes.

Q. Well how often would you have been seeing them at that stage?

20 A. At least every second day, sometimes every day, sometimes, it might have been three day, you know, but averaged out, at least every second day.

Q. And you would regard yourself as being in a position, at that time, to provide a good deal of support to your daughter?

25 A. I think so, yes.

Q. You were, no doubt attempting to support her in any way you could?

30 A. I think I was.

Q. Did you ever do any babysitting of , for instance?

35 A. I think, in, probably the first twelve months, I think only twice, I think while she went shopping for no length, it was no long time. But chose to take the baby with her, wherever she went.

40 HIS HONOUR: Q. Did you have any concern about welfare at the time that was removed from her mother?

45 A. No, I just thought she was just a normal, normal child. There was, you know, I was a bit concerned when it happened, I mean, obviously, as a grandmother, but--

Q. Concerned in what sense though?

50 A. Well, I couldn't, having a fair bit of contact with my daughter, watching her grow, which is what, was one of the things that DOCS did ask me earlier in the piece, a few months before that, was to keep an eye on her, things like that, which was what I was doing and then, she got taken, you know, so--

55 Q. Well what was your feeling about whether it was justified or not at the time?

A. Well I was a bit, I just couldn't believe it had happened, I knew there was a couple of things that

hadn't obeyed by, like taking her to a certain baby health clinic, nurse, or whatever they call them these days. She was taking her to a nurse attached to the local chemist shop, that was doing the weighing and the measuring and
 5 whatever happened, but it wasn't the one that DOCS specifically said she wanted them to go to. But--

Q. Apart from that, was there anything that bothered you?
 A. No, no. She was clean, she was fed, she seemed just
 10 like a normal little child.

Q. Was your daughter's emotional relationship with her stable?
 A. Yes, with her it was, yes, definitely. She got upset
 15 when she went and that was a different story, as soon as, you know, when they came and--

Q. But before she left, had you seen any outbursts of emotional irrationality on your daughter's part in her--
 20 A. When, when?

Q. Before?
 A. Before. I saw some, probably a couple, yes, but it was usually when contact was made by DOCS, either by
 25 phone, or visits, or even mail, depending on what was written in the letters.

O : Q. When you saw, sorry your Honour?
 30 HIS HONOUR: No, no I've finished.

O : Q. When you saw in August of this year, how did she appear to you? , that is?
 A. , yeah, she seemed okay, she, she didn't respond
 35 to me like she used to, put it that way, because obviously she hadn't seen me--

HIS HONOUR: Q. Did she remember who you were?
 A. Sorry.

Q. Did she remember who you were?
 A. I think she knew, she knew something, yes, but not, "Oh nanna." you know, that sort of thing.

Q. It had been some ten months?
 A. Yes, yes, so.

O : Q. In October?
 A. Yes.

Q. Just before she was taken into care?
 A. Yes.

Q. She would have responded to you, I suppose, when she saw you?
 A. Yes.

Q. She would run to you and?

A. Well, yeah, yes, slowly, but, not fast, yes, she would have come to me no bother.

Q. And she'd say "Nanny", or--

5 A. Yeah.

Q. --"Granma", or something?

A. Nan, yeah.

10 Q. And "Hello" and "How are you going?"?

A. I don't know about "Hello", but it was "Nanny", you know, so, yes.

15 Q. You say in your affidavit that you've observed the positive aspects of your daughter's mothering and nurturing of . And I take it that you're talking about prior to October 2001?

A. Yes.

20 Q. You believe that would be best loved and cared for by her mother, is that just something that you feel, as a mother, that that would be the best thing for or are you saying that based upon some sort of, you know evidence that you can actually put your hands on?

25 A. Well I suppose it would have to be on that mother instinct, but, I mean, I couldn't really see a problem, before October last year anyway, and I don't see why it should be any different now.

30 Q. You say that circumstances, over the past two years have significantly improved?

A. Yes.

Q. Including stable and secure housing?

35 A. Yes.

Q. And her ability to cope on a daily basis with the demands on her of a young child?

A. Yeah.

40

Q. Apart from the stable and secure housing, now we know that she's got herself a Housing Commission house-

A. Yeah.

45 Q. Or a Department of Housing house?

A. Yes.

Q. And presumably she can keep that for as long as is necessary?

50 A. Yeah.

Q. As long as she pays the rent, presumably?

A. I suppose so, yes.

55 Q. What else do you say she has done which has shown an improvement in her circumstances?

A. Okay, she, when she moved out to the west, she came back, a few things happened out there and she came back

with absolutely nothing. So she's built herself up, in the last, probably two and a half years now. Like I said, she's got stable housing, she came with no furniture, she's gradually, you know, put a home together. She sees her son on a very regular basis. He's a fair bit older than the other children, so he can pick and choose when he comes and visit, but they seem to get on well. They have the usual mum, you know, little tiffs sometimes, but, I think that's natural, but, I, no, I suppose, it's based on motherly instinct. I'm no professional, so I can't.

Q. Can you tell us this, you mentioned her son, that's ?

A. Yep.

Q. You'd agree wouldn't you that in the past, that there were certainly there were some, a great deal of tension between your daughter and , when he was a little boy?

A. I don't think it was with, so much , I think it probably was with her broken marriage with the ex-husband and who was living with.

Q. The affidavit?

A. Yep.

Q. Is your affidavit, obviously?

A. Yeah, yeah, yes.

Q. They're your words, you prepared the affidavit did you?

A. No, well yes, I had a bit of help, because I didn't know how to actually word it correctly.

Q. Who helped you prepare it?

A. The solicitor, I had to ask somebody.

Q. A solicitor?

A. Yes.

Q. Who was the solicitor?

A. sitting there.

Q. Miss P ?

A. Yes.

HIS HONOUR: Q. You didn't give evidence at the hearing before the Magistrate with this case, did you?

A. No.

Q. Was there a reason for that?

A. Well, it got to the stage where it was taking a lot of time, I just didn't have the time at the, you know and I really didn't think it was going to get to this stage.

Q. Did it mean that you've changed in your attitude to your daughter's ability to cope with motherhood of ?

A. I don't say it's changed, because I still thought she could do it, I mean, I was a bit shocked when they took

her.

Q. But if you thought there'd been an injustice, surely you would have given evidence before the Magistrate?

5 A. True, that was my mistake.

HIS HONOUR: Miss F , do you have any questions?

10 P : Q. Mrs you said that you observed your daughter, getting a little bit upset after she had had visits from DOCS, I'm talking prior October 2001?

A. Yes.

15 Q. Can you recall how many visits that she would have in a week?

20 A. I couldn't give you a number on that, I couldn't give you a figure, but it could be two, two or three a month, I would say, but in between, there was phone calls, or there was mail and depending on what was said on the phone, what was written in the letters, the actual visits were the worse ones, because they were face to face.

HIS HONOUR: Q. Were you ever present when they took place?

25 A. Twice, I think I was, twice.

Q. Did anything untoward happen on either of those occasions?

30 A. It was just a battle of words, you know, it was, but nothing, I mean, once the person left, she, we could calm her down then, but, you know, but, all the time they were at the house, no.

35 P : Q. Do you recall your daughter ever talking about a worker by the name of ?

A. Yes.

Q. Visiting?

40 A. Yes.

Q. How many times did he visit?

45 A. He seemed to do a number of visits, how many I don't really know. He was, he seemed to be the main person that was, I don't know, if it was happening to me, I would say, putting the pressure on, that's, that's the way I'd look at it.

HIS HONOUR: Q. Were you present when he visited at all?

50 A. Yes.

Q. When you say that do you think he was being domineering, or?

55 A. Definitely domineering, I just thought it was going a bit overboard, definitely a bit overboard. I was there on, I think it was twice, those two occasions were the ones that I definitely know I was with, when they visited. But the other--

Q. When you say "They", did he come alone, or?

A. Yes, yeah, both times he was on his own.

5 P : Q. Prior to October 2001, you say that
was being fed and nurtured and dressed., well looked
after. Did you observe your daughter doing any activities
with ?

10 A. Oh yeah, she was always sitting, playing, reading
books to her, with the TV shows, getting her to join in
and react to those, yes. And she was breastfeeding the
baby at the time, so she's breastfed the baby all the
time, right up until the day the baby was taken, she was
still being breastfed.

15 Q. I think you were there on that occasion

A. Yes.

Q. How did react on that day?

20 A. She was upset, she was, she was unhappy, she was
crying a little bit, not a great deal, but, you know, she
wanted to go back, you know, she was trying to go back.
But she just got took from me and put in the car.

Q. Do you recall whether was well on that day?

25 A. She had a temperature, if I remember rightly, she
wasn't, she wasn't 100 per cent, but she wasn't
dangerously ill, she was just, she just had one of those
off days--

30 Q. She was out of sorts?

(No verbal reply)

Q. I think you have ten grandchildren--

35 A. Yes.

Q. --altogether?

A. Yeah, ten.

40 Q. And you have to divide your time between the ten and
that included ?

A. Yes, yeah. Well you try to.

Q. And even to this day, you have a grandchild every
Friday night?

45 A. Nine times out of ten, if it's not Friday, it's
Saturday, yes.

Q. You have your job and you have your career?

50 A. Yep.

Q. And that's something that you have to do because of
financial reasons?

A. Working, definitely. Definitely working.

55 Q. But you would still find time to have visits from your
daughter Miss ?

A. Oh yes, yeah, well see the hours I work, I start work
at least 5 o'clock in the morning and I usually finish

around 2 or 3 o'clock, depending on where I am, what problems are happening. So I do have, I usually go home, have a sleep and then I've got that gap at around the tea time early evening.

5

HIS HONOUR: Do you have any questions of the witness?

APPELLANT: (No verbal reply)

10

<WITNESS RETIRED

HIS HONOUR: Do you have any other witnesses?

15

APPELLANT: No, I do have some handwritten letters from some people who said, if they were needed, but they are just written, like hand references, people whose children I look after, to this day. An elderly lady--

20

HIS HONOUR: Well show them to Mr O and Miss F, if you wish to tender them.

25

APPELLANT: This one your Honour, is from a friend of mine who was here earlier, but she couldn't stay, she had, she works for and has to do some--

HIS HONOUR: What's the name of that referee?

30

APPELLANT: Her name is and it's a very hard name to pronounce, but she's got her details on here. She said if you need to call her, she's prepared to give evidence if needed and--

HIS HONOUR: Was she here once before?

35

APPELLANT: She has been here each time with me, yeah, and she was here earlier.

HIS HONOUR: She's got children, I think?

40

APPELLANT: Yeah, yep, she's got two young boys. I look after her boys, did you want that?

HIS HONOUR: Yes.

45

APPELLANT: And this one is from a friend of mine, an elderly lady which I visit every day.

HIS HONOUR: Are there others as well?

50

APPELLANT: No, but I did bring my resume, which has, like, my certificates that I've achieved. My welfare qualifications. I've studied child protection.

55

HIS HONOUR: Yes, well you can hand them up. Leave that for the moment, until Mr O had an opportunity of looking at the statements.

O : Thank you your Honour. I object to them on the

5 basis that they are not in affidavit form your Honour,
it's, as I understand it, it's an affidavit jurisdiction,
notwithstanding the provision in the legislation that says
that it's not a court of strict, where the rules of
evidence strictly apply, but I would have thought that it
could have been put, at least in affidavit form your
Honour, I understand.

10 HIS HONOUR: Well I suppose it could have been, but it's
very difficult for lay people to understand--

O : I understand your Honour.

15 HIS HONOUR: --those rules, I mean--

O : Yeah, well I, it's a formal objection I suppose
your Honour.

20 HIS HONOUR: All right, well I note your objection. I
will have a look at them. Well the second reference
doesn't contain a name.

O : That was the other objection I had too your
Honour. I lost sight.

25 HIS HONOUR: Her first name is , is that right?

APPELLANT: , yeah.

30 HIS HONOUR: Yes, well she's given a telephone number,
I'll have my associate contact her and find out what the
name is.

O : Thank you your Honour.

35 HIS HONOUR: I propose to admit them. I note your
objection, but in the circumstances, I propose to admit
them.

40 APPELLANT: The smaller one, the lady's sixty-nine years
old, so I don't think she'd probably wouldn't have known.

HIS HONOUR: She's a pensioner, she says?

45 APPELLANT: Yes, that's the word.

HIS HONOUR: All right. Do you have any evidence
Miss P ?

50 P : No.

HIS HONOUR: Mr O , do you have any evidence?

O : Yes, I have your Honour.

55 HIS HONOUR: Has he prepared a document?

O : He's prepared a number of documents your Honour,

which are already in evidence.

HIS HONOUR: Is there some further document that covers the proposed evidence?

5

O : No, there's not your Honour. As I suggested this morning your Honour, I was, suggested that your Honour might well benefit from hearing from him.

10

HIS HONOUR: Well that may well be the case. But I think that, to comply with the rules that there should be a statement as to what he is going to say.

15

O : I hear what your Honour says, yes. You will appreciate your Honour, that this morning was the first time that I was made aware that this was going to proceed today--

20

HIS HONOUR: Well I'm not sure how that misunderstanding arose, because whilst I had voiced the possibility of an interim order being made, I hadn't formed, and still haven't formed any view about that in any event and as far as I was concerned, it was a suggestion made, a reaction sought, that was all and I didn't particularly have it in mind to do anything other than proceed with the appeal as expeditiously as possible, bearing in mind that I've got a very tight commitment and it's not easy to find time to fit a matter of this type in.

25

30

O : I appreciate that your Honour and your Honour will see that, certainly from the outline that I handed to your associate earlier today, it was always my--

35

HIS HONOUR: I haven't had time to read that yet--

O : --it was always my impression that this was, well we were running on the interim.

40

HIS HONOUR: Look, Mr O , I accept what you say, I'm not critical of you. I'm just saying that we were at cross purposes.

O : Yes, obviously.

45

HIS HONOUR: I propose to proceed, continue with this case tomorrow morning.

O : Very well your Honour.

50

HIS HONOUR: And if, perhaps, a statement of Mr present views are put in writing--

O : That can be done overnight, yes.

55

HIS HONOUR: It will assist the Court.

O : Thank you your Honour.

P : Your Honour, just in relation to that. Mr
is a psychologist, he's made a couple of statements. He
was, he gave evidence and was cross-examined extensively
in the Local Court, his evidence is in the transcript.
5 I'm just wondering--

HIS HONOUR: Well that's why I wanted to see what's in the
statement to see whether it's going to take the matter any
further. I won't know until tomorrow. You can renew your
10 objection, if you, once you've seen it. I have a criminal
at half past 9, but I should be ready to resume this case
at 10 o'clock.

O : Thank you your Honour.

15 ADJOURNED PART HEARD TO 27 SEPTEMBER 2002

20 oOo