



QUEENSLAND COURTS AND TRIBUNALS

TRANSCRIPT OF PROCEEDINGS

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MAGISTRATES COURT

STURGESS, Magistrate

MAG-00029310/22(0)

POLICE

Complainant

and

REECE STORME FERRARA

Defendant

GOONDIWINDI

9.53 AM, THURSDAY, 30 MARCH 2023

DAY 1

DECISION

Any rulings in this transcript may be extracted and revised by the presiding Judge.

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

HER HONOUR: All right. So this is the matter of Mr Reece Storme Ferrara, who was charged with an offence of obstructing police, with the offence date being 4th of October of 2021. Mr Ferrara has consistently disputed the charge, and the matter was listed for hearing today, the 30th of March. At a mention of the matter on the 1st of March, Mr Ferrara, who resides in Victoria, appeared by phone. The Prosecution, on that occasion, informed the Court that the Prosecution was proceeding with the charge. It was, therefore, listed for hearing today, the 30th of March, and I recall advising Mr Ferrara that he would have to attend in person for the hearing. He could not conduct a hearing by phone. Previous appearances, of course, Mr Ferrara had been given leave to appear by phone.

Subsequently, on the 22nd of March, the Prosecution advised the registrar that the Prosecution intended to offer no evidence in relation to the charge. Mr – the Prosecutor today, has – Sergeant Wiggan has appeared and has offered no evidence in relation to the charge. Mr Ferrara did wish to make a no case submission, but I advised him that there was nothing upon which I could determine no case to answer on the basis that the Prosecution had offered no evidence on the charge, and that my only options were to dismiss the charge and discharge Mr Ferrara.

Mr Ferrara has also – is seeking an application – to make an application for costs. To that end, he provided to the Court yesterday, the 28th – sorry, Tuesday the 28th of March, a document headed Application for Costs for the Defendant. In that application, Mr Ferrara refers to sections 158, 158A, 158B, 159 and 160 of the Justices Act. I do note that the initial part of Mr Ferrara’s application is directed towards his no case submission. I have disregarded that, as I have indicated there is nothing upon which I can adjudicate a no case submission, because no evidence has been offered. With respect, however, to the application for costs, I have read through Mr Ferrara’s application.

I will say a couple of things. Firstly, as I already pointed out to Mr Ferrara, the Prosecution did inform Mr Ferrara and the Court on the 1st of March that they were proceeding with the charge, so Mr Ferrara certainly had a reasonable expectation that the matter was going to proceed today, and it appears that he made travel arrangements accordingly to come to Goondiwindi from his residence in Victoria, and I accept that he would have expended funds in doing so.

However, I have to act under the legislative provisions. I have no power to award costs other than the power that is provided for in the Justices Act. Section 158A refers to costs that can be awarded against a police or public officer, and the section provides that costs can only be awarded if it is satisfied – the Court is satisfied it is proper that a costs order should be made, and there are a number of considerations set out in that section, 158A, as to what considerations might apply. But, unfortunately, the primary hurdle seems to me to be 158B, which provides that the Court may only award costs for an item allowed in the scale of costs provided in the regulation.

5 The regulation, which is the Justices regulation, only provides for legal professional costs or disbursements for witnesses. There is no power to order personal costs or travel costs or compensation for costs incurred for Mr Ferrara's travel expenses in coming to Goondiwindi, and he has not expended any legal professional costs for which I could make any order. So there simply is no – nothing within the scale of the Justices regulation that covers the costs that Mr Ferrara has expended in coming to Court today.

10 I reiterate that I have every sympathy for Mr Ferrara. It is unacceptable that – for the Court and Mr Ferrara to have been told, as recently as the 1st of March, that the trial was proceeding, and then have Mr Ferrara told, basically a week ago, it would appear – the Court was informed on the 22nd of March, assuming Mr Ferrara was advised around the same time, to give him only a week's notice that he was not going to be required to defend himself today. It is entirely unsatisfactory, and I entirely accept
15 that it is unfair to Mr Ferrara, but I am bound by the legislation, and I can only make orders in terms of the jurisdiction given to me in the Justices Act and my review of the Justices Act and consideration of relevant case law, including that referred to by Mr Ferrara, but also other Queensland case law, I can find no power to award compensation to Mr Ferrara for his costs of coming to Court today. So
20 unfortunately, I have no jurisdiction to make the award – any award of costs for Mr Ferrara. As, I stress again, the only power is in relation to legal professional costs.

25 So the Prosecution has offered no evidence on the charge. The charge is dismissed. Mr Ferrara is discharged. That is the end of the matter today, Mr Ferrara. You are free to go. Okay. Thank you.
