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NORTHERN TERRITORY OF AUSTRALIA

CORONERS COURT

A 51 of 2019

AN INQUEST INTO THE DEATH

OF KUMANJAYI WALKER

ON 9 NOVEMBER 2019

AT YUENDUMU POLICE STATION

JUDGE ARMITAGE, Coroner

TRANSCRIPT OF PROCEEDINGS

AT ALICE SPRINGS ON 13 SEPTEMBER 2022

(Continued from 12/09/2022)

Transcribed by:
EPIQ

THE CORONER: Yes, concerning the matters raised by Mr Edwardson on behalf of Mr Rolfe, on the question of the issues list, I consider it premature and unnecessary to rule on the scope of the inquest at this stage and I decline to do so.

Concerning the objections to evidence, namely text messages extracted from Constable Rolfe's phone and the evidence of Claudia Campagnaro, I consider that both bodies of evidence are likely relevant to the issues likely to arise in these proceedings and I will receive that evidence. The reasons for my decisions are contained in the written decision which I now publish.

THE CORONER: Dr Dwyer.

DR DWYER: Thank you, your Honour. Your Honour, the next stage is to tender the brief of evidence. We foreshadowed this yesterday. It's really just for housekeeping. It will be too unwieldy to tender each document and then get to the end and tender 10,000 documents.

So, I propose to tender the brief. I note however, your Honour, that there has been a number of objections foreshadowed by those assisting Constable Rolfe. And so, what I would note is that by formally tendering the brief, that your Honour will nevertheless note those objections have been made and your Honour will rule on them in time, and they may be taken out of the brief.

THE CORONER: Yes.

DR DWYER: The importance of tendering the entire brief at this stage is that your Honour has amended a non-publication order which will go onto the website so it's clear for everybody. But that makes it clear that everything contained within your Honour's brief of evidence is subject to the non-publication orders and that will continue.

The non-publication orders over each item as they're tendered is lifted, or unless we place it on the website beforehand. So, obviously, anything on the website is not protected under the non-publication order.

THE CORONER: Thank you, Dr Dwyer.

DR DWYER: And I will just – we will ensure that the items that are the subject or foreshadowed to be the subject of objection flagged with your Honour. So, I'll hand up a table of those tomorrow.

THE CORONER: Thank you. And do we – what do we now propose for the remainder of today? I should say, I am sorry for the inconvenience of not being able to hand down my decision earlier today and appreciate your patience.

DR DWYER: Your Honour, we have paper copies for everybody at the Bar table. We understand that the media may well be interested as well and will they arrange for copies to be sent out or made available. They'll be on the website. They will be

on the website and if anybody needs a paper copy, we will try and assist them.

And that gives parties the opportunity for the rest of the afternoon to consider your Honour's findings, and we start again tomorrow morning at 9:30 am with Sergeant Jolley.

THE CORONER: Anything else arising?

MS OZOLINS: Your Honour, could I just raise one issue? I'm not sure if now is the best time or perhaps it could wait until tomorrow. Given your Honour's rulings and that I understand that some of the evidence about which your Honour's just ruled will be put to witnesses tomorrow morning, I note that there are some police members who are on the witness list but will not give evidence until much later in proceedings.

Dr Freckelton has indicated that there are four police officers that he doesn't represent in these proceedings. I am advised that two of those are currently seeking to engage independent counsel.

And I wonder whether there might be a non-publication order in relation to those three witnesses who are not yet represented in relation to any of their – any of the evidence which your Honour has now received which might be put to other witnesses pending their giving evidence in these proceedings.

THE CORONER: Does it need to extend to the evidence? Would it be sufficient if it covered the identity of those persons?

MS OZOLINS: That would be sufficient, your Honour.

THE CORONER: Dr Dwyer?

DR DWYER: I think that's appropriate, your Honour, because those officers will be coming to give evidence and if they're going to be separately legally represented, an application might be made in respect of - - -

THE CORONER: Sure.

DR DWYER: - - - their names at that time or permanently. But there's no need to canvass their names at this stage. It's obvious that it's the phone of Constable Rolfe that has been downloaded and that there are communications with other officers and the content of the communications then can be put without names.

THE CORONER: Yes.

DR DWYER: So, I support my friend's application.

MR FRECKELTON: Let me just add to that, your Honour. There are a number of (inaudible) that were also reflected in the messages that we understand, at least NAAJA (inaudible) in the relationship. So, if their names be the subject of a non-

publication order, that would be appropriate.

DR DWYER: Can I just make this clear? At the moment, the download from the text messages are within the brief of evidence and are subject to a non-publication order. So, it's only really - I think my learned friend's pointing out whether - - -

THE CORONER: Whether it arises.

DR DWYER: - - - arises in cross-examination.

MR FRECKELTON AO KC: That's correct, your Honour.

THE CORONER: In any examination. I don't know that it will arise, but if it does, please let me know and I will extend the non-publication order to other individuals if their names arise.

MR FRECKELTON: As the court pleases.

DR DWYER: The only slight complication of that is that we're publishing by virtue of the livestream. So, if we could just have an indication from the parties about when that will happen. I have to say, I expect that Sergeant Jolley has got so many interesting things to say that I would be a number of hours with her tomorrow before any issue comes up about text messages.

THE CORONER: And I don't - as I understand the way that you might propose to use this material, that you're necessarily going to be identifying any persons - - -

DR DWYER: Not at all.

THE CORONER: - - - during any examination of the other witnesses.

DR DWYER: That was not my plan, your Honour.

THE CORONER: It's more to - - -

DR DWYER: I just count - - -

THE CORONER: - - - explore that attitudes that might be represented.

DR DWYER: That's absolutely the case, your Honour, from my part, as your Honour's counsel assisting. I can't and I just don't know what other parties might do in those circumstances, but it might be a good opportunity now while we've got the time to discuss that.

MR MCMAHON AC SC: I can say, I don't think anyone is planning to use any of the names, certainly with Sergeant Jolley.

MR BOULTEN SC: I don't think that I will, although there might be reference to

content.

THE CORONER: Yes. All right, look if you thought that you were going to ask a question or that an answer might reveal the identity of a person, then just let us know and we'll be alert to it. And it may be that we can come up with some words in relation to a non-publication order that can deal with that in any event.

And we will attempt to address that by a further non-publication order in relation to the names of any of the police officers or any other civilians who might be referred to. So, I think we can probably address it in a general way in relation to the non-publication order that we'll produce.

DR DWYER: May it please the court.

MR MCMAHON: Thank you, your Honour.

THE CORONER: So, we can adjourn and I will do my best to ensure that we actually start at 9:30 tomorrow.

ADJOURNED