

IN THE DISTRICT COURT
OF NEW SOUTH WALES
CRIMINAL JURISDICTION

5 JUDGE WASS SC

THIRTEENTH DAY: WEDNESDAY 10 DECEMBER 2025

10 **2021/00202922 - R v [redacted]**¹.

NON-PUBLICATION ORDER RE NAME OF ACCUSED

**STATUTORY NON-PUBLICATION ORDER RE IDENTITIES OF
COMPLAINANTS**

15 **CLOSED COURT FOR COMPLAINANT'S EVIDENCE**

Mr Hatfield appears for the Crown on the recusal motion

20 ---

HER HONOUR: All right, the matter of . I understand there's an
application by the DPP, and I'll take appearances shortly. I see we've got a
reasonably full house so there's a couple of things I wanted to say, particularly
25 about non-publication orders and the like before we start.

This matter was listed today for the hearing of final addresses and my
summing-up after a judge alone trial, which has so far lasted 14 days over
almost a month, in sittings that had previously been conducted at
30 . A reason for the judge alone
trial and the staggered hearing of the matter was due to the accused's serious
mental and physical health issues,

35 Accordingly, to date this trial has been very carefully managed. That has
occurred with the cooperation and goodwill of all involved so that it could get to
this point. The trial is in respect of allegations that date back as far as the late
1950s,
40

. The proceedings were commenced in 2021,
accordingly, it has taken over four years for this matter to get to trial.

45 To complete the trial, which needs to be conducted as closely as one can to a
jury trial, the matter has continued in Sydney today without further delay, and
the accused has been permitted, with the consent of the parties, to appear by
AVL and I note that has occurred. The ODPP as I understand it will bring a

¹ Evidence omitted by resolution of the committee 17 December 2025. There are numerous redactions throughout the transcript.

5 motion for me to recuse myself. That must be determined before I can do anything else in the proceedings. If I do recuse myself, it will mean that the trial will have to begin afresh before another judge some time in the future, I do not know when. On any view, the trial will now be delayed until at least early 2026.

Mr Isaacs, do you appear on behalf of the Crown in the trial?

10 CROWN PROSECUTOR: In the trial, yes.

HER HONOUR: Thank you. Mr Hatfield, do you appear on behalf of the Crown in the recusal motion?

15 HATFIELD: Yes, I do.

HER HONOUR: Ms Evers, do you appear on behalf of the accused in respect of both matters?

20 EVERS: I have concerns about the second matter. I have only received the material very recently. Basically, it was suggested to me that I read it overnight. It didn't arrive till I was already in the car driving away from my - so I haven't read it. I've indicated to the Crown I'm not in a position to proceed. I haven't read it, I need to research it, I'm not sure what my role is, but in any case, can I just say this, your Honour?

25 HER HONOUR: Yes.

EVERS: That, yes, I do appear for in respect of the trial. Can I say this, however? That given that this application has no bearing on the trial, it would appear to me at the outset, without knowing anything about the details apart from they have no concern with my trial, that this would appear to be the wrong forum. I cannot understand why it's been brought to this forum at this stage, which not only disadvantages my client, but the numerous complainants who are very elderly, some have got cancer, some are very sick, and for them to have to go through a retrial has considerable concern for me as to the matter being put over, except for a very short period of time which I indicated to the Crown.

40 They've had the material since Friday. The first I heard of it was in a phone call with Mr Isaac Andrews at about - when I was on my way to a medical appointment which I have had for almost a year, it's a critical thing. I then had to drive so I was in no position - I also wanted to finish my closing address, which I had done from 5.30 this morning and also yesterday evening, and I'm not in a position to suddenly have material served on me which I haven't been in a position to print in the course of these proceedings. So I've indicated this would seem to be a procedural unfairness and I'm not in any position to argue the merits or unmerits of something that doesn't concern this trial.

45 HER HONOUR: Right. I do have some questions of Mr Hatfield that I think I need to ask today. I don't know whether or not they can be answered today

50

and I'm certainly not going to require those answers. I am not likely, and indeed given what you've just said, Ms Evers, I will not ask for you to make any submissions or indeed put on any evidence in the motion today. Firstly - take a seat, Mr Hatfield. Firstly, I'd like to be able to release - is Ms Coggins online? No, she's in court. I'd like to be able to release Ms Coggins and Mr Isaacs if they wish to be excused. Of course, you're welcome to remain. Is it the case, Mr Hatfield, that the motion is based not on any evidence as to my running of this case but in respect of other matters that have nothing to do with my conduct of the proceedings?

HATFIELD: Primarily, yes. There's no complaint of actual bias and no part of the submissions is anything specifically that your Honour has done in the course of the trial.

HER HONOUR: What's the reference to primarily then, Mr Hatfield? It's either a - do you want me to ask the question again?

HATFIELD: No. The context of the trial may be relevant to the application, the broader context of the trial.

HER HONOUR: I don't understand that submission.

HATFIELD: Okay.

HER HONOUR: My question was is there anything about the running of the case that is going to be referred to by the Crown in its submissions?

HATFIELD: No.

HER HONOUR: Thank you. All right. I think I could safely say whatever else might occur this morning, the trial will not continue today. So as I say, Mr Isaacs and Ms Coggins, you may if you wish be excused. Mr Hatfield, I have some preliminary questions.

HATFIELD: Yes.

HER HONOUR: Do you move on a notice of motion dated 9 November 2025 seeking two orders? The first of which is that I recuse myself from the proceedings?

HATFIELD: 9 December is the--

HER HONOUR: I beg your pardon. December.

HATFIELD: Yes, I do.

HER HONOUR: Thank you. Firstly, do you seek to - has that been filed in court with the registry?

HATFIELD: It was filed with the registry electronically, as I understand it,

yesterday. I haven't--

HER HONOUR: Filed?

5 HATFIELD: Yesterday around 1pm.

HER HONOUR: Yesterday, thank you.

10 HATFIELD: There's an additional copy for your Honour if that would assist.

HER HONOUR: Thank you. I'm grateful. Have you filed with the registry the affidavit of Ms Whitehead(?) sworn 9 November(as said) 2025?

15 HATFIELD: Yes.

HER HONOUR: So that does not need to be filed in court, that's already been filed, has it?

20 HATFIELD: Yes, your Honour, with the registry.

HER HONOUR: Thank you.

25 HATFIELD: There's a copy for your Honour if that would assist, which has the pages numbered.

HER HONOUR: It will, thank you. Is that the only affidavit that you wish to rely on in support of the motion?

30 HATFIELD: No, there's a supplementary affidavit of today's date of Anne Whitehead, 10 December 2025, which I seek leave to file in court.

HER HONOUR: I'm sorry, I think I might have also said November again, Mr Hatfield. I meant 9 December 2025 is Ms Whitehead's affidavit.

35 HATFIELD: Yes.

HER HONOUR: And you've got a further affidavit dated the tenth, have you?

40 HATFIELD: 10 December, yes.

HER HONOUR: Have you seen that, Ms Evers? I take it you haven't.

EVERS: No, your Honour.

45 HER HONOUR: Is there a copy for Ms Evers?

HATFIELD: A copy's been provided.

50 HER HONOUR: And indeed a copy of all this material that she doesn't have?

EVERS: Just been provided.

HER HONOUR: All right. Thank you. Take a seat, Mr Hatfield. I'll read it. Are they the only two affidavits you wish to rely on?

5

HATFIELD: Yes, your Honour.

HER HONOUR: Thank you. I'm looking at the email that was sent to my associate yesterday, Mr Hatfield. Is it the case that the DPP has also provided the affidavit and the annexures to a number of other people in order to pursue this application?

10

HATFIELD: Only those concerned in the proceedings.

HER HONOUR: Perhaps I can assist. Mr Hizo(?), is he your instructing solicitor?

15

HATFIELD: Yes. He's present in court. He's instructing.

HER HONOUR: Thank you. Ms Coggins I know. Mr Scully?

20

HATFIELD: A Newcastle-based solicitor who'd been involved in the proceedings.

HER HONOUR: Involved in the trial?

25

HATFIELD: Involved in the trial, yes.

HER HONOUR: Any reason why he was provided with the affidavit? Given that Ms Coggins had it?

30

HATFIELD: He's Ms Coggins' manager.

HER HONOUR: Right.

35

HATFIELD: Yes.

HER HONOUR: That's email that's agsdccrime@dcj.nsw.gov.au. Who was that being provided to?

40

HATFIELD: That's the registry, as I understand it.

HER HONOUR: Thank you. And the ODPP matters email address, where does that email go?

45

HATFIELD: That's to the internal document management system.

HER HONOUR: So that goes straight to a system and not to a person? Is that the case?

50

HATFIELD: Yes, recorded to a computer system, yes.

5 HER HONOUR: To your knowledge, Mr Hatfield, has a copy of the - I'll call them the first and second affidavits, the first being the one dated the ninth. Has a copy of the first affidavit been provided - I take it Mr Isaacs has been given a copy?

HATFIELD: Yes, your Honour.

10 HER HONOUR: Is Mr Isaacs your junior in this application? I see that he's giving you some level of instructions. I'm just wondering what the situation is.

HATFIELD: Yes. Yes.

15 HER HONOUR: Thank you. Can you tell me whether or not that affidavit has been provided to anyone else that you're aware of?

HATFIELD: Only persons within the DPP involved in the matter.

20 HER HONOUR: And who are they?

HATFIELD: Sorry, your Honour?

25 HER HONOUR: Who are they?

HATFIELD: You want me to identify everyone within the DPP who has worked on the matter?

30 HER HONOUR: That's been given a copy of this affidavit. That's my question.

HATFIELD: I'm not obliged to give your Honour that information, in my submission.

35 HER HONOUR: Maybe we'll circle back to it, Mr Hatfield. Is it the case that it has been given to other people within the DPP?

HATFIELD: Yes, other people are aware of it.

40 HER HONOUR: Thank you. I see from JusticeLink there is only one application to recuse. Is it the Director's intention to seek to have me recuse myself from all ODPP proceedings that are currently before me?

HATFIELD: I will confirm my instructions in relation to that, your Honour.

45 HER HONOUR: Thank you. I'll wait.

HATFIELD: As presently instructed, yes, your Honour.

50 HER HONOUR: Are you instructed or not? Are those instructions planning to change or? What's the situation?

HATFIELD: Your Honour, that's--

5 HER HONOUR: I'm trying to manage a very busy list in the next two weeks, Mr Hatfield, and if you have instructions to put those applications on, they should be on so that the other people at the other end of the bar table know that they're coming.

HATFIELD: Yes.

10 HER HONOUR: So that we don't have a situation that Ms Evers is in.

HATFIELD: I understand that documents are being prepared with respect to the matters on Friday that are listed before your Honour.

15 HER HONOUR: Thank you. What about the matters for next week?

HATFIELD: I don't know about those.

20 HER HONOUR: All right, well I'll take you through them shortly. And is it the DPP's current intention to make those applications as the matters arise in the next couple of weeks? Is that the best you understand of it, or don't you know, Mr Hatfield?

25 HATFIELD: I don't know.

HER HONOUR: So we know something about the Friday matter? Is that where we are?

30 HATFIELD: Yes, I know the documents--

HER HONOUR: And is it the present instructions to file either the first affidavit or something like it in support of that motion?

35 HATFIELD: The application is brought in respect to this matter. This is the only matter before you and I've given you my understanding with respect to the matters Friday. I can't answer specifically about the other matters other than the matter that's before your Honour now.

40 HER HONOUR: Are you instructed to appear in the matter on Friday?

HATFIELD: Not as yet. Not as yet.

45 HER HONOUR: We may circle back to that as well. Can I ask this question, and perhaps you could only answer it in respect of Friday, I'm not sure, but is it the case that the parties, both parties, that is to say the Crown in the matter on Friday and defence counsel in the matter on Friday, have they been put on notice that this motion is coming?

HATFIELD: I don't know, I've been focused on this matter. I understand some

steps have been taken about Friday. I do not know precisely what has occurred.

5 HER HONOUR: All right. Can I just let you know what those matters are so that nothing's left in abeyance by the end of the year? There's a matter of , and can I please also ask those in Court to be mindful that there may well be non-publication orders in respect of the names of the accused? There's a matter of listed for the 12th for sentence following guilty verdicts delivered by a jury on 17 September, 2025. Those proceedings
10 commenced about four years ago in 2021. has been remanded since at least 24 February 2023 and is awaiting to be sentenced. There's a matter of that was listed on 12 December for delivery of my sentence. That matter was due to be delivered on 14 November, but I required some further assistance only on the matter of parity, so it was held up only for that
15 reason. Those proceedings commenced in 2024 and has been in custody waiting to be sentenced since 30 April, 2024. There is a matter of . That is a matter that was an appeal against a dismissal of the revocation of a final apprehended domestic violence order that was made back in 2023. I upheld that appeal on 20 November, 2025, but the matter is
20 reserved for delivery of my full reasons on 5 December. I would be grateful to know whether I'm going to be asked to deliver those reasons in circumstances where I have already made orders.

25 The next matter is the matter of . It involves child sexual offending that has some priority in the Court listings. It was listed on 15 December 2025 to make a registrable person's order. Those proceedings commenced on 2024. I do not know whether that is by consent or not. The next matter is a matter of . It involves the cultivation and manufacture of a large quantity of a prohibited drug, and it is listed for delivery of my sentence on 15 December.
30 Those proceedings commenced in 2024, and the offender is on bail and elderly.

The next matter is the matter of . It's an appeal against the severity of sentence imposed in the Local Court. I place the appellant on section 11 bail
35 on 23 June 2025. The matter is listed to be finalised as a severity appeal on 6 February 2026. Those proceedings commenced on 2024. The final matter that I've been able to have notice of, and there may be others, I'm not sure, is an appeal against severity of sentence imposed in the local Court. I placed the appellant on section 11 bail on 18 November 2025. The matter is listed for
40 next mention on 27 February 2026, and those are proceedings that commenced in 2024. So I'd like to know at some stage, If it's not too much to ask, Mr Hatfield, if the DPP are pursuing recusals in any of those matters?

45 HATFIELD: I'll endeavour to get onto that at the appropriate time.

HER HONOUR: Thank you, Mr Hatfield.

EVERS: Might I interrupt? Given that the trial's not proceeding today, could
50 be excused?

HER HONOUR: Yes. Any issue with that, Mr Isaacs?

HATFIELD: No, your Honour.

5 HER HONOUR: Yes, he may be excused. And could I have a hearing loop, please? All right. I should check, although, well, I should check, are there any other matters that, to your knowledge, I've missed, Mr Hatfield?

10 HATFIELD: No, not to my knowledge.

HER HONOUR: The documents you rely on are some 130 pages of motion, affidavits and submissions, which I have read and understood. I appreciate that the DPP moved as quickly as humanly possible to put on this application, as you are obliged to do. And in that sense, obviously enough, I'm certainly
15 ready, but Ms Evers clearly is not. And please understand, as I say, Ms Evers, I'm unlikely to call on you for your response at all.

EVERS: I'm grateful.

20 HER HONOUR: Thank you. Mr Hatfield, do you read the two affidavits of Ms Whitehead in support of the motion?

HATFIELD: Yes, I do.

25 HER HONOUR: Thank you. Can I just inquire, Mr Hyland is asserted to be the legal representative on the motion. Is that his signature on the notice of motion?

30 HATFIELD: No, that's Mr Hizo.

HER HONOUR: Thank you. Could I ask you, given the material that's in exhibit D, is Mr Hyland aware of the contents and of the matters set out in Ms Whitehead's first affidavit?

35 HATFIELD: I'm not in a position to answer questions about the knowledge of individuals within the--

HER HONOUR: Can I tell you why I ask, Mr Hatfield? These matters are subject to parliamentary privilege. It is a privilege held by the parliament and
40 they are statements made by Mr Hyland and I don't know whether or not he consents to you trying to deploy this affidavit. And so I think I need to understand the answer to that question before I grant you leave to read it.

45 HATFIELD: The--

HER HONOUR: Can you answer the question now or not? These are all questions on notice, I should say. I don't expect an answer today.

50 HATFIELD: I can take that on notice then.

HER HONOUR: Yes, thank you, Mr Hatfield.

HATFIELD: It's a public--

5 HER HONOUR: Because I have similar questions about Ms Dowling. Sorry, you were saying it's a public?

HATFIELD: The transcript is publicly available on the parliamentary website.

10 HER HONOUR: Thank you, Mr Hatfield, I'm aware of that. My question to you is whether or not Mr Hyland is aware that you are seeking to deploy parliamentary privilege material in Court proceedings. That's my question. All right. And similarly, I see in paragraph 2 of Ms Whitehead's first affidavit that
15 the director has authorised Ms Whitehead to swear it. Do I take it from that that the director is aware of the contents of the first affidavit? Or do you wish to take that on notice as well, Mr Hatfield?

HATFIELD: You can take that as it's read there.

20 HER HONOUR: Well, I don't I don't know that that's quite the same question.

HATFIELD: I'm authorised by the Director of Public Prosecutions to swear this affidavit.

25 HER HONOUR: My question to you, perhaps if I can be more focused, is whether or not Ms Dowling is aware when she authorised the affidavit that it included material the subject of parliamentary privilege?

30 HATFIELD: I'm not here to answer questions about Ms Dowling's state of knowledge.

HER HONOUR: I need to understand because I need to decide whether or not the material is admissible, Mr Hatfield. It's the only reason I'm asking.

35 HATFIELD: Well, in my submission, the material is admissible on its face.

HER HONOUR: We'll come back to that--

40 HATFIELD: There's been no objection to it by my learned friend and the basis from--

HER HONOUR: We haven't got there yet. Ms Evers has preserved her position about objections. I need to be satisfied that I'm not in breach of the law if I allow this to be deployed in the proceedings, and that's why I'm asking.

45 HATFIELD: Is your Honour considering a particular provision in relation to the--
-

50 HER HONOUR: Let me just answer the questions. If you don't want to answer them now, as I say, I don't expect answers today. So I would like to

5 know in respect of the Director and Mr Hyland, because, and particularly in respect of exhibit D, which when I say D, I'm referring to the Hansard. Or I should say, be more accurate, the uncorrected transcript of the committee's questions and answers, whether both Ms Dowling and Mr Hyland are aware of the nature of the annexures to the affidavit. It's a question that's in fairness to them, Mr Hatfield, and I need to know whether or not they're being deployed with or without their consent.

10 HATFIELD: Okay, thank you.

HER HONOUR: Thank you. And can I ask of you directly, Mr Hatfield, are you aware that parliamentary proceedings have not yet concluded and that other witnesses may be called before the committee?

15 HATFIELD: I'm aware that the inquiry by that committee has not yet concluded. I'm aware of that.

20 HER HONOUR: I take it you don't want to answer the second question, or can't answer the second question? It's a maybe, whether or not witnesses may be called before the committee.

HATFIELD: I haven't turned my mind to that specific issue.

25 HER HONOUR: Right, thank you. And are you aware that Ms Dowling has sought to put on further matter before the Parliamentary Committee?

HATFIELD: Yes, thank you.

30 HER HONOUR: So far, as you are aware, has anyone from the DPP, including Ms Whitehead, you, Ms Dowling or Mr Hyland, informed the Upper House Committee of your intention to rely on annexures A and D in the first affidavit?

35 HATFIELD: For myself, I'm not aware of that. I can't speak for the others.

HER HONOUR: So when you say you're not aware, do I take it you haven't informed them and to your knowledge you don't know whether or not anyone else has informed them?

40 HATFIELD: No.

HER HONOUR: And is that true of those who instruct you?

45 HATFIELD: I haven't inquired of them specifically, if you would like me to, I--

HER HONOUR: I'd like to know if anyone's asked the Upper House Committee for their approval or at least tell them that you had planned to deploy it.

50 HATFIELD: No, that's the indication I'm getting.

HER HONOUR: All right, thank you. Do you have six instructing solicitors, Mr Hatfield?

5 HATFIELD: There's a number of persons from the DPP.

HER HONOUR: Do they number six, plus two barristers?

10 HATFIELD: There's two barristers, there's a further barrister in the body of the Court, a crown prosecutor, there's a solicitor advocate, and there are four solicitors.

HER HONOUR: Are they here instructing or just for their own entertainment?

15 HATFIELD: They're here as part of the, they're instructing me.

HER HONOUR: Thank you. Do you know whether or not in reading the first affidavit which includes annexures A and D and seeking to rely on them in this application where a public parliamentary inquiry is still ongoing, whether or not that is in breach of the absolute immunity providing that no speech or debate in the committee ought be impeached or questioned in any Court? I'm happy to repeat it, Mr Hatfield.

20

HATFIELD: Thank you.

25 HER HONOUR: Do you know whether in the circumstances - you're reading the affidavit which includes annexures A and D and you're seeking to rely on them on this application on those matters that are the subject of an ongoing parliamentary inquiry is in breach of the absolute immunity providing that no speech or debate in the committee ought be impeached or questioned in any court?

30

HATFIELD: Nothing is impeached in this application seeks to impeach or question anything said by the committee. It's merely pointing to the fact of it as a matter of public record and the effect that that has on the apprehension of bias in accordance with the legal test so--

35

HER HONOUR: So is it your submission that you are not in breach in the circumstances I have described of the absolute immunity providing that no speech or debate in the committee ought be impeached or questioned in any court?

40

HATFIELD: Yes.

45 HER HONOUR: Thank you. Do you wish to provide any further submissions either written or orally on that issue?

HATFIELD: I could have an opportunity to do so if--

HER HONOUR: Yes. If I could understand the reason why you say yes, it's

obviously an important and potentially complex preliminary matter?

HATFIELD: Yes.

5 HER HONOUR: Because it will determine the metes and bounds of what I can allow in the affidavit. Finally and as a separate question, do you know whether or not this matter calls into question the separation of powers and whether you are required to provide notices to the relevant attorneys-general?

10 HATFIELD: I do not believe that it does.

HER HONOUR: Thank you. Do you wish to put on any written submissions about that or are you content to rely on that orally?

15 HATFIELD: I'm content to rely on that orally.

HER HONOUR: Thank you. Does that then - they're the questions that I had for the moment, Mr Hatfield. Do you - when do you think you will be in a position to provide the written submissions about deploying the parliamentary material?

20

HATFIELD: Your Honour wishes to determine that as a preliminary matter before it--

25 HER HONOUR: Well, I need to understand what your submission is. I will need to hear from Ms Evers. She might want to put on some evidence but I need to understand that because I can't determine the motion until I know what the evidence is. So I think - sorry, it's a long way of saying yes, I probably need to determine it as a preliminary issue.

30

HATFIELD: Thank you. Well, we can - could I have a moment to consider that--

HER HONOUR: Yes, certainly.

35

HATFIELD: --and take instructions and indicate how long--

HER HONOUR: Yes. Are you happy to do it now or?

40 HATFIELD: Yes. Was there any particular authority or provision that your Honour wished to refer me to in consideration of that issue?

HER HONOUR: I'll leave that to you, Mr Hatfield. They're just some questions that I had.

45

HATFIELD: Thank you. If I could have time to do that and indicate how long I would need?

HER HONOUR: Yes.

50

HATFIELD: Thank you.

HER HONOUR: Sorry, are you planning to ask your team now how long you think you will need or do you want me to step off or?

5

HATFIELD: Yes, if your Honour would step off.

HER HONOUR: Certainly.

10

HATFIELD: Yes.

SHORT ADJOURNMENT

HER HONOUR: Mr Hatfield?

15

HATFIELD: Yes. Our submission is that the evidence is relevant and admissible. There is no breach - to admit it is not a breach of any parliamentary privilege, absolute or otherwise. And so it's admissible. There's no rule and no authority or provision which would prevent its admission. I note additionally that it's not proposed to impeach or question the material it's relied on for the fact of what it says on its face. And we press its admission on the application.

20

HER HONOUR: And do you say you're otherwise entitled to deploy in court proceedings?

25

HATFIELD: Yes.

HER HONOUR: All right. And I take it from that you don't wish to put on any written submissions?

30

HATFIELD: No.

HER HONOUR: Thank you. Ms Evers?

35

EVERS: Yes.

HER HONOUR: How long do you - I've ordered daily transcript. How long do you think you will need to put your either evidence and/or submissions on? Or do you wish for a ruling about the admissibility of what's in the affidavit first? I mean, I suppose you're entitled to put on submissions about that too if you wish.

40

EVERS: Might I speak to my instructing solicitor?

45

HER HONOUR: Yes.

EVERS: My preliminary view--

50

HER HONOUR: Yes, he's on AVL, I take it.

EVERS: My preliminary view is that I'm happy for the first course to be taken that your Honour make a ruling. But I would like to get instructions.

5 HER HONOUR: All right. Do you want to make a phone call or--

EVERS: I will. I can ring outside.

HER HONOUR: Do you mind if you just step outside?

10 EVERS: I have no problem with that.

HER HONOUR: Thank you, Ms Evers.

15 EVERS: I think our position is that we would like the preliminary ruling in relation to the admissibility of the material to be made, and then the rest be.

HER HONOUR: Mr Hatfield, is that a sensible course, do you think?

20 HATFIELD: Yes, your Honour.

HER HONOUR: That you get my ruling on that first?

25 HATFIELD: Yes, unless your Honour wishes to receive the material provisionally.

30 HER HONOUR: No, I do not. I don't know that I should, Mr Hatfield, and indeed I want to make it clear that I have not ruled any of it admissible so far. All right. Mr Hatfield, can I just ask you do - and I'm sorry, I should've asked you this before you sought instructions - wish to provide answers to any of the questions I asked otherwise?

HATFIELD: Not at this juncture.

35 HER HONOUR: I think this might be the juncture. Do you want an opportunity to at least allow for that in the timetable?

HATFIELD: I'm happy if your Honour rules at this point. I don't need to address any of those questions at this stage, in my submission.

40 HER HONOUR: Are you saying that I won't be told whether or not those who gave evidence before the parliamentary inquiry knew that it was being deployed in the proceedings? Do you say that doesn't matter? Or do you have a position that you want to put forward, or you simply won't respond?

45 HATFIELD: In my submission it's irrelevant. In my submission that's an irrelevant consideration.

HER HONOUR: All right, thank you. Right. Ms Evers, how long do you need to put anything you want to put on about that supplementary question, that is,

as to whether annexures A and D are admissible?

5 EVERS: I'm in your Honour's hands. I spoke to my instructing solicitor. Term finishes next week and the next available time would be February. It's going to take me a little while, I would've thought, so--

HER HONOUR: Nominate a date, Ms Evers.

10 EVERS: I'm sorry?

HER HONOUR: Nominate a date, Ms Evers. It's up to you.

15 EVERS: I would prefer sometime in the new year. I have a trial on 2 February which is two weeks at the outset, any time after that. The only other date I'm not available is 6 March.

HER HONOUR: So sometime in the last two weeks of February?

20 EVERS: Perhaps the last week of February would be ideal.

HER HONOUR: There'll be availability, no question.

EVERS: That's the date I prefer.

25 HER HONOUR: So if you want to nominate a date, I'll just hear from Mr Hatfield.

EVERS: I'm not sure. I'll have a look at my diary as to a date.

30 HER HONOUR: Friday 27 February.

EVERS: That'll be suitable to me, thank you.

35 HER HONOUR: Any issue with that, Mr Hatfield?

HATFIELD: Our request is that the matter proceed today and be determined today.

40 HER HONOUR: Based on what? is on bail. Ms Evers, I suspect any delay - is there any unfairness to the Crown in delaying the pausing of this matter?

45 HATFIELD: No, but it's an important matter going to jurisdiction and in the public interest should be determined as soon as possible.

HER HONOUR: That's the reason why I would give Ms Evers the time that she needs to respond.

50 HATFIELD: As the Court pleases.

HER HONOUR: Thank you. The matter is relisted for either further argument on the preliminary - Ms Evers, I would expect if you were going to put on evidence that that be done as the same time as your submissions on 27 February?

5

EVERS: That'd be done.

HER HONOUR: All right, thank you. Mr Hatfield, do you want a right of reply before we have the hearing?

10

HATFIELD: Yes, your Honour.

HER HONOUR: Thank you. When do you want it? When would you like to respond to Ms Evers by?

15

HATFIELD: A week later.

HER HONOUR: Thank you. I think that brings us to Friday 6 March.

20

EVERS: That's the only day I'm not available in that week.

HER HONOUR: That's just for Mr Hatfield to respond.

EVERS: Oh, I see.

25

HER HONOUR: We're not back in court then.

EVERS: Sorry.

30

HER HONOUR: When do the parties want it listed after that? Is a week enough, Ms Evers, for you to respond to Mr Hatfield in reply?

EVERS: It is. Thank you.

35

HER HONOUR: What about Friday 13 March?

EVERS: Sounds like a good date.

HER HONOUR: Mr Hatfield?

40

HATFIELD: Yes, your Honour. That's suitable.

HER HONOUR: Thank you. The recusal motion is stood over to Friday 13 March for further hearing on the preliminary question as to the admissibility of annexures A and D to the affidavit of Anne Whitehead dated 9 December 2025. Ms Evers is to have her submissions and any evidence on which she relies by Friday 27 February, and the Director is to have the submissions on by Friday 6 March.

45

50

HATFIELD: As the Court pleases.

HER HONOUR: Any further matters from either of you?

EVERS: Not from me. Thank you, your Honour.

5 HER HONOUR: Thank you. We're adjourned.

ADJOURNED TO FRIDAY 13 MARCH 2026