



# QUEENSLAND COURTS AND TRIBUNALS

## TRANSCRIPT OF PROCEEDINGS

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### MAGISTRATES COURT

**NOUD, Magistrate**

**MAG-00014589/20(1)**

**THE OFFICE OF THE WORK  
HEALTH AND SAFETY PROSECUTOR**

**Complainant**

**and**

**TIMOTHY NEIL FULLER**

**Defendant**

**BRISBANE**

**2.10 PM, TUESDAY, 7 MAY 2024**

**DAY 1**

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HIS HONOUR: All right. I'll take appearances, then, in – is it the Department of Natural Resources and Mines against BM Alliance Coal Operations Proprietary Limited and Timothy Neil Fuller. Who prosecutes?

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MR S.R. DRINOVAC: Your Honour, may it please the court. My name is Drinovac, spelt D-r-i-n-o-v-a-c - - -

HIS HONOUR: Just hang on a moment. Sorry. I'll just get you to spell that again for me.

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MR DRINOVAC: It's D-r - - -

HIS HONOUR: Yes.

15

MR DRINOVAC: - - - i-n - - -

HIS HONOUR: Yes.

MR DRINOVAC: - - - o-v-a-c.

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HIS HONOUR: All right.

MR DRINOVAC: Initials S.R., and I appear for the Office of the Work Health and Safety Prosecutor.

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HIS HONOUR: All right. Thank you, Mr Drinovac. Who appears for BM Alliance Coal Operations Proprietary Limited?

MR P.J. RONEY KC: May it please the court. Roney, initials P.J., King's Counsel. I appear for that defendant in that matter, instructed by Herbert Smith Freehills.

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HIS HONOUR: Thank you, Mr Roney. Who appears for the defendant Timothy Neil Fuller?

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MR H. DOWNES: I do, your Honour. Downes, D-o-w-n-e-s, initial H., of Mills Oakley.

HIS HONOUR: All right. Thank you, Mr Downes. All right. Gentlemen, I've been assigned this trial. I understand it's a trial in a couple of weeks; is that right?

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MR DRINOVAC: That's so, your Honour - - -

HIS HONOUR: Yes.

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MR DRINOVAC: - - - but the parties will be seeking to delist the trial and – but - - -

HIS HONOUR: Is that opposed by the prosecution?

MR DRINOVAC: No, it's proposed by the prosecution and conjointly with defence for BMA – BM Alliance.

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HIS HONOUR: All right.

MR DRINOVAC: Before I get to that point, I should note that the prosecution will offer no further evidence in respect of Timothy Neil Fuller.

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HIS HONOUR: Are you happy for me to deal with that now?

MR DRINOVAC: Yes, your Honour.

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HIS HONOUR: All right. Mr – there's no need for Mr Downes to remain here for any other reason if I deal with 4 and discharge him. Will there be any further submissions after that, Mr Downes, or not?

MR DOWNES: No, your Honour. We would be delighted to leave at that point.

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HIS HONOUR: All right.

MR DOWNES: We'll ask the matter be dismissed and for a certificate and that will be the end of us.

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HIS HONOUR: All right. So there's no – I don't have to make any rulings on costs or anything, do I?

MR DOWNES: No.

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MR DRINOVAC: No your Honour.

HIS HONOUR: All right. The prosecution commenced by way of a complaint and summons, did it?

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MR DRINOVAC: That's so, your Honour.

HIS HONOUR: Got the date?

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MR DRINOVAC: Your Honour, the complaint was made on 20<sup>th</sup> day of December 2019.

HIS HONOUR: That's the complaint and summons that I'm dismissing, am I?

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MR DRINOVAC: Yes, your Honour.

HIS HONOUR: All right. Thank you. With respect to the defendant Timothy Neil Fuller, the prosecution having today before me offered no evidence with respect to the defendant Timothy Neil Fuller, with respect to all charges on a complaint and summons of the 20<sup>th</sup> of December 2019, they are dismissed. The defendant is  
5 discharged. Any further orders required there?

MR DOWNES: Your Honour, the defendant does seek a certificate under section 149 of the Justices Act.

10 HIS HONOUR: I don't – just – you're going to have to help me with that.

MR DOWNES: Your Honour, it's just a certificate to give the defendant comfort that no future proceedings will arise out of this matter against him.

15 HIS HONOUR: All right.

MR DOWNES: I can quote the section to your Honour if that – it's very short.

HIS HONOUR: That's okay. Have you spoken to Mr Drinovac about it?  
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MR DOWNES: Very briefly.

HIS HONOUR: Is there any issues with me or – doing that or - - -

25 MR DRINOVAC: Your Honour, that's not opposed - - -

HIS HONOUR: All right.

MR DRINOVAC: - - - by the prosecution.  
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HIS HONOUR: What's the wording of the order?

MR DRINOVAC: The wording of the order – I'll leave that to my learned friend.

35 HIS HONOUR: Yes.

MR DRINOVAC: I'm not aware if there's a draft order, for example, to assist your Honour.

40 HIS HONOUR: All right.

MR DOWNES: I can produce a draft order to your Honour or - - -

HIS HONOUR: That might be easier.

45 MR DOWNES: Why don't I do that.

HIS HONOUR: The – you draft a – an order. I'm happy to sign it. There's no objection. And then at least then it's put on the court file and then there's never any issue for your client.

5 MR DOWNES: Certainly.

HIS HONOUR: How quickly do you think you can do that?

MR DOWNES: Before close of business this afternoon.

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HIS HONOUR: All right. You happy if I sign that in chambers, Mr Drinovac?

MR DOWNES: I'll copy my colleague in, obviously.

15 MR DRINOVAC: Yes, your Honour.

HIS HONOUR: All right. Well, on receipt of the section 149 certificate, I'll initial that in chambers and just place it with the papers and ensure that a copy's sent to you each.

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MR DOWNES: Thank you, your Honour.

HIS HONOUR: All right. Happy with that?

25 MR DOWNES: Very, your Honour. And on that note, may I be excused?

HIS HONOUR: Yes, indeed. Thank you, Mr Downes.

MR DOWNES: Thank you.

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