

ANNEXURE D

Report of an Inquiry by a Conduct Division
of the Judicial Commission of NSW
in relation to
Magistrate Jennifer Betts

21 April 2011

IN THE RYDE LOCAL COURT

LANE COVE COUNCIL
(Plaintiff)

v

PETER MARESCH
(Defendant)

BEFORE: Magistrate Jennifer Betts

On Friday, 9 October 2009

1 SERGEANT: One of the people here is Peter Maresch, your
2 Honour, but I understand the papers are outside. The
3 matter was put over for the prosecution to get photos. I
4 have requested them, your Honour. They haven't been
5 provided by the council.
6

7 HER HONOUR: The matter of Peter Maresch. Mr Maresch, you
8 envisage that you are going to plead not guilty. I have
9 brought you to court today because I think the Lane Cove
10 Council had a photograph of you in the loading zone.
11

12 SERGEANT: The ticketing indicates that they did take a
13 photo. We requested that photo on the last occasion to --
14

15 HER HONOUR: Now, Mr Maresch, the photograph has been
16 taken, but it's not with the prosecution file. If that
17 photograph shows your vehicle in the loading zone and
18 you're not a vehicle that's supposed to be in a loading
19 zone you will be found guilty, okay? So I'm not sure what
20 the basis of your written plea of not guilty is, okay?
21

22 MR MARESCH: Well, your Honour --
23

24 HER HONOUR: It is a passenger vehicle sedan, which is not
25 supposed to be in a loading zone anyway.
26

27 MR MARESCH: Sorry?
28

29 HER HONOUR: Passenger vehicle sedan is what you were
30 driving?
31

32 MR MARESCH: Yes, it was towing a trailer, and under the
33 regulations I'm allowed to park a vehicle "principally
34 constructed for carrying goods". Now, I do it quite often.
35 I need a trailer for business and I use the trailer to
36 take, on that particular occasion, parcels to the post
37 office because I've got - my car is full of other stuff for
38 my landscaping business. And there seems to be - there
39 doesn't seem to be an argument about whether or not I was
40 towing a trailer. It's all about the --
41

42 HER HONOUR: The only thing in the ticket is the sedan.
43 They don't mention the trailer in there and the photograph
44 is not here, okay?
45

46 MR MARESCH: Yes.
47

1 HER HONOUR: Look, it might be in your interest to make
2 representations to Lane Cove Council in relation to your
3 vehicle being a trailer attached to the sedan and what you
4 suggest is a lawful defence. They may take that into
5 account and withdraw the application - the complaint
6 against you, okay?

7
8 SERGEANT: Your Honour, could I ask the court's indulgence
9 to have the matter stood down until after morning tea.
10 There is a (indistinct) and I can try and make an inquiry
11 with council in regards to the trailer, and if that's the
12 case there might be a --

13
14 HER HONOUR: Okay. I mean, the sergeant might be able to
15 make those inquiries today and may be able to get
16 instruction from the council in relation to it, which will
17 mean you don't have to come back, okay?

18
19 MR MARESCH: Right.

20
21 HER HONOUR: So, just bear with me and we'll try and get
22 that sorted out for you today, okay? I'll just resume --

23
24 MR MARESCH: Okay. I'll just wait here.

25
26 HER HONOUR: Yep, just wait here, okay.

27
28 (Matter stood down)

29
30 HER HONOUR: Sergeant, any difficulty with Mr Maresch's
31 problem?

32
33 SERGEANT: Your Honour, I've been emailed some colour
34 photos. Unfortunately I've only got access to a black and
35 white printer, and there's no trailer on the vehicle, and
36 unfortunately the sign doesn't clearly show the loading
37 zone sign, but the prosecution are instructed to proceed
38 with the prosecution of the matter.

39
40 HER HONOUR: Mr Maresch, have you had a look at the
41 photos? No trailer.

42
43 MR MARESCH: Yeah, I've had a look at the photos, your
44 Worship, but --

45
46 HER HONOUR: I know, but there's no trailer there. Let's
47 not go to the trailer excuse for being in a loading zone.

1
2 MR MARESCH: I object to the actual condition of the
3 photos on the basis that they don't --
4
5 HER HONOUR: No, it's not (indistinct). I mean, I was not
6 going to list it for hearing until we found out what the
7 situation was. That's the only reason, because if the
8 trailer was there, the sergeant has power to withdraw it
9 without you having to come back, okay?
10
11 MR MARESCH: Yep.
12
13 HER HONOUR: She's got the photographs. They're not in
14 colour. She hasn't spoken to the officer who issued the
15 ticket, and the photographs don't show the sign. That
16 officer is able on a hearing to give evidence of where the
17 sign is.
18
19 MR MARESCH: Yep.
20
21 HER HONOUR: But that photograph clearly shows there's no
22 trailer, okay, so your defence using trailer is not going
23 to go - take you very far, okay? So really, I wanted you
24 to come to court to tell me what is your defence. You've
25 done that, and it appears that the prosecution evidence is
26 there was no trailer attached to it, okay?
27
28 MR MARESCH: Okay.
29
30 HER HONOUR: So if your vehicle is parked there as a sedan
31 in the loading zone, you will be found guilty, okay?
32
33 MR MARESCH: Yeah.
34
35 HER HONOUR: So what do you want to do? Plead guilty now
36 with an explanation as to why you blatantly parked your
37 sedan in that loading zone or what?
38
39 MR MARESCH: Well, you've - I can see - I can see where
40 you're leading, but --
41
42 HER HONOUR: It's an offence of strict liability, sir,
43 okay?
44
45 MR MARESCH: Yes.
46
47 HER HONOUR: You are not a lawyer, okay?

1
2 MR MARESCH: Yes, I realise that.
3
4 HER HONOUR: And I've had a gutful of people such as
5 yourself coming to this court pleading not guilty, having
6 hearings and getting found guilty as soon as they open
7 their mouth. That incurs costs on the community having the
8 officers here, court time taken up, so that's why I wanted
9 you to come today to give me your explanation as to why you
10 are pleading not guilty.
11
12 MR MARESCH: With respect, your Honour --
13
14 HER HONOUR: Just listen to me. I haven't finished yet.
15 Okay?
16
17 MR MARESCH: Yes.
18
19 HER HONOUR: I am trying to save you time. If the matter
20 is set down for hearing and you're found guilty after all
21 the evidence is given, the fine will be far greater than it
22 was issued to you by the officer, okay? I can fine you up
23 to \$2,200. The fact that you have got a particular view is
24 your own business, okay? I'm trying to assist you because
25 you haven't got any legal representation. I'm not going to
26 list the matter for hearing unless there's a valid defence.
27 That's what you have told me - "I had a trailer attached."
28 The prosecution have obtained the photograph which clearly
29 shows no trailer, so that defence may not be available to
30 you. You have now had an option of seeing that photograph
31 which may refresh your memory as to the circumstances of
32 you being in that position on the 21st of April. If you
33 wish to plead guilty, I can deal with it now. If you wish
34 to plead not guilty and subsequently found guilty, it may
35 be well and truly a lot bigger fine. I don't know.
36
37 MR MARESCH: And will you be hearing the matter, your
38 Worship?
39
40 HER HONOUR: Yes, I will.
41
42 MR MARESCH: Well, I guess I might as well plead guilty,
43 then, you know.
44
45 HER HONOUR: You're only pleading guilty --
46
47 MR MARESCH: With respect to your Honour, you know, you

1 might have had a gutful, using your words, of people coming
2 and pleading not guilty, but you haven't seen those photos,
3 you weren't in the car.
4
5 HER HONOUR: I don't need to see them. I'm just trying to
6 manage --
7
8 MR MARESCH: Exactly.
9
10 HER HONOUR: -- the court time, sir --
11
12 MR MARESCH: Yes.
13
14 HER HONOUR: -- which I need to do.
15
16 MR MARESCH: Well --
17
18 HER HONOUR: Shut - be quiet, please. I need to manage
19 court time because we are listing matters into end of
20 February, many months down the track and I'm trying to
21 bring that back and ensure that those matters listed for
22 hearing are genuine pleas of guilty, pleas of not guilty
23 after people have had appropriate legal advice. A lot of
24 people such as yourself come before the court thinking --
25
26 MR MARESCH: Such as myself?
27
28 HER HONOUR: -- pleading not guilty.
29
30 MR MARESCH: Such as myself?
31
32 HER HONOUR: It's all a question - don't interrupt me.
33
34 MR MARESCH: You don't know me. You don't know me.
35
36 HER HONOUR: Don't interrupt me, otherwise you will wait
37 until after I do the other hearing, okay? Do not interrupt
38 me again, thank you. .
39
40 MR MARESCH: Well, I --
41
42 HER HONOUR: I'm trying to assist you. You can wait.
43
44 MR MARESCH: (Indistinct) With respect --
45
46 HER HONOUR: You can wait. You can wait. You are showing
47 no respect to me. I'm trying to assist, sir, and get you

1 out of here instead of incurring further costs for
2 yourself --
3
4 MR MARESCH: Yes.
5
6 HER HONOUR: -- if you are subsequently found guilty after
7 pleading not guilty.
8
9 MR MARESCH: In the process you insult me without even
10 knowing me, okay.
11
12 HER HONOUR: Sir, you show respect to the court, otherwise
13 you will be held in contempt.
14
15 MR MARESCH: I'm here and I'm showing respect --
16
17 HER HONOUR: No, you're not.
18
19 MR MARESCH: -- but I'm being told you've had a gutful of
20 people like me, all right. That's what you're saying -
21 you've had a gutful of people like me without even knowing
22 me.
23
24 HER HONOUR: I've requested you not to interrupt and you
25 keep interrupting. If you're going to interrupt anymore I
26 will wait until the end of the hearing, okay. What do you
27 want to do, plead guilty with an explanation or what?
28
29 MR MARESCH: Well, if you're handling the matter, your
30 Worship, I'll plead guilty, okay.
31
32 HER HONOUR: You do it on your own volition, sir. Do you
33 wish to --
34
35 MR MARESCH: No, I don't.
36
37 HER HONOUR: -- plead guilty with an explanation? .
38
39 MR MARESCH: I'm doing it under duress and I'll plead
40 guilty.
41
42 HER HONOUR: You're making a joke of this. The matter
43 will be set down for hearing on the 8th of December before
44 me. 8th of December at 10am.
45
46 MR MARESCH: I plead guilty.
47

1 HER HONOUR: No, I'm not going to accept your plea on that
2 basis, sir. You're not going to hold me to ransom. The
3 matter will be listed for hearing before the court. The
4 court record has indicated what you've said, sir. There is
5 no point laughing and shaking your head --
6

7 MR MARESCH: Oh, dear.
8

9 HER HONOUR: -- saying "I am going to wish to plead guilty
10 under duress"; I will not accept a plea of guilty on those
11 circumstances. The matter will be dealt with as a hearing
12 on Tuesday, the 8th of December at 10am. .
13

14 MR MARESCH: Oh dear, oh dear, oh dear.
15

16 HER HONOUR: Be here by 10 o'clock, thank you. The court
17 record will note that he's just gone off mumbling under his
18 breath.
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