

BETWEEN:

HUNTER AND NEW ENGLAND
LOCAL HEALTH DISTRICT
Appellant

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- and -



SHEILA MARY SIMON
First Respondent

WENDY ROSE
Second Respondent

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APPELLANT'S REPLY

Part I: Certification for publication

1. The appellant certifies that these submissions are in a form suitable for publication on the internet.

30 **Part II: Reply to argument of the respondents**

2. The respondents submit that *"there was no evidence as to what care was available in Victoria or whether it would have been less restrictive"*.¹
3. Pettigrove was treated for his mental illness in Victoria when needed in 2001 and regularly from October 2003 (JAB 253 - 268). Pettigrove received treatment in Cohuna (where he lived) at the Cohuna Hospital and the Cohuna Clinic (JAB 260.50) as well as being provided with 'case management' support and monitoring between 27 October 2003 and 19 April 2004 (JAB 253.45; JAB 260 - 268; JAB 691.40). This was voluntary, community based care. On 19 April 2004 there was an attempt by Pettigrove's case manager in Cohuna to contact Taree Hospital Mental Health Unit *"to discuss possible transfer of case management..."* (JAB 268.50).

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¹ Respondents' submissions page 3 line 30 (restated at page 5 paragraph 11(c) and at page 7 in paragraph 20).

4. Further evidence as to the existence and nature of the Victorian care is seen in:

a. the following parts of the clinical notes made by the appellant:

i. JAB 207.40 - *"To return to mother's home in Cohuna ... Link up with services in Cohuna"*;

ii. JAB 207.53 - *"active agreed care plan in place"*;

iii. JAB 207.56 – copies of the patient's notes to be sent to Echuca Community Mental Health Service;

iv. JAB 213 – entry for 0750hrs records that Pettigrove's mother provided the contact details for his case manager in Echuca;

v. JAB 220.54 – *"Phone call to [mother] to inform her of [discharge] plans"*; and

vi. JAB 225.31 – The recording of the name and number of the case manager (*"Leanne"*) in Cohuna.

b. the following parts of the Echuca Community Mental Health Service treating notes that were faxed to and read by Dr Coombes soon after Pettigrove's admission:

i. JAB 253.27 - a consultant psychiatrist at the Echuca Community Mental Health Service reported to Pettigrove's general practitioner in Cohuna that *"he continues to be stable in the community ... He lives with his brother in the community; he clearly is very supported by his extended family including his parents"*;

ii. JAB 262.39 – Pettigrove's case manager at the Echuca Community Mental Health Service recorded that he *"continues to live with brother ... Is well supported by family"*;

c. Dr Coombes' statement to police (JAB 593.10)²:

"I thought this man would be best treated by his long-term treatment team rather than being detained in a mental health facility some 1200 km from his family and friends."

² Extracted in Macfarlan JA's judgment at JAB 694.50.

5. In any event, the issue is not whether the Victorian care was reasonably available and less restrictive. The issue is whether Dr Coombes held that opinion. His evidence was that he did (JAB 82.15 and 593.10).

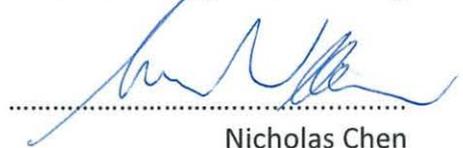
Dated: 3 September 2014

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