



DATE 7 November 2012

Attention: Editors and Journalists

The trial of Michael Ibrahim and Rodney Atkinson for conspiracy to murder is to commence on 12 November 2012 in the District Court in Sydney. The trial previously commenced on 2 April 2012 and ran until 20 April 2012. The purpose of this letter is to advise of the trial date and to seek your cooperation in ensuring that on this occasion the trial can be concluded.

Fadi Ibrahim was to be tried along with Michael Ibrahim and Rodney Atkinson but because he was recently hospitalized his trial will be adjourned most likely until next year.

The Crown case is that Michael Ibrahim, Rodney Atkinson and Fadi Ibrahim agreed to murder John Macris. As part of the prosecution case a number of people are referred to and their recorded conversations with the accused are relied upon by the prosecution. Those people include John Ibrahim and Sam Ibrahim, the brothers of Michael and Fadi Ibrahim. John Ibrahim and Sam Ibrahim are not alleged by the Crown to be part of the conspiracy.

Media reports during the time the trial was previously running included references to both John Ibrahim and Sam Ibrahim that were held to be so prejudicial by the trial Judge that he discharged the jury and adjourned the trial. Part of the decision of the trial Judge included the following:

“Sydney is experiencing an episode of lawlessness that is properly of grave concern and has properly been the subject of reporting by news media organisations. The irresponsibility though, in my judgment, arises from the frequent reference to Sam Ibrahim and to John Ibrahim when the news media organisations represented in this Court and presently represented in the Supreme Court were aware of this trial and the concerns of this Court to ensure a fair trial for these accused. It matters not what the accused are charged with. It matters not what their background or character might be. Each of the accused, as with every member of this community, is entitled to have a fair trial conducted properly and according to the law.

There was a broadcast by a media outlet in the evening news of 17 April 2012. A copy of that broadcast has been provided to the Court. In that broadcast the following remarks were delivered toward the end of the five minutes the article took dealing with a spate of five shootings in Sydney overnight between 16 and 17 April 2012, four of which were represented to be the product of a dispute between the Hell's Angels and the Nomads motorcycle groups. The remarks by the presenter were;

“Police sources have told me that Sam Ibrahim is known as a Nomad, black and white member, his patches are colourless, meaning that he has a life membership, a claim Sam himself has denied in the past.”

For my part I do not see why it was necessary to make reference to Sam Ibrahim at that point in the broadcast or within the context of the presentation at any point at all. As it was being said there were images of a man said to be Sam Ibrahim displayed behind the presenter on an electronic board. There was also, within the same sequence, a colourful image with the words in large lettering, "Bikie gang wars". The vision presented in the article was dramatic and sensational. For example, when the individual incidents were identified, that is the individual shooting incidents, it was with reference to the image of a street map immediately followed by a representation consistent with a discharged projectile passing through, suggesting the point or location where the shooting occurred. The image of the page was as if the projectile had passed through it leaving scorch marks with some smoke emitting. After each location was thus identified an image of the premises appeared. There followed a reporting of ongoing disputes between Hell's Angels, and the Nomads, and with reference to the Bandidos, well-known names of so-called outlaw motorcycle groups.

As I have already noted, why it was necessary to include reference to Sam Ibrahim specifically in a broadcast that might have been otherwise within the parameters of responsible reporting is difficult to understand, particularly when it must have been known to the publisher that this trial was continuing, that it concerned Ibrahim family members, that the Court is concerned to ensure fairness in the trial, and the protection of the jury from sensational reporting that might infect their deliberations, which all led to the non-publication orders that are the subject of the appeal set down for hearing today."

The reference in above quote to proceedings in the Supreme Court was the ultimately successful appeal by various media organizations against a non publication order made by the trial Judge: see *Fairfax Digital Australia & New Zealand Pty Ltd v Ibrahim* [2012] NSWCCA 125. In that case the order of the Court of Criminal Appeal included a note, at [105], that:

"The Court notes that any continued or further publication of material having a tendency to interfere with the administration of justice in respect of the forthcoming trial of the second, third and fourth respondents may, despite the discharge of the orders referred to above, constitute a contempt of court."

Publication of material concerning the accused or the members of the Ibrahim family from now until the completion of the trial to commence on 12 November 2012 may therefore result in the trial once again being adjourned and may also be a contempt of court.