

Q. That footage ends at 01.18.52.

CROWN PROSECUTOR: Is that a convenient point, your Honour?

5

HIS HONOUR: Oh yes, sure. Well, thank you. You can step down for the moment, Detective Hennessy?

<THE WITNESS WITHDREW

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CROWN PROSECUTOR: I return exhibit E to your Honour's Associate.

15

HIS HONOUR: Okay, members of the jury, we will come back again tomorrow morning at 10am - sorry, no. Tomorrow morning we will be a bit late, I'm afraid. I have got to do something before we start, so it will be a quarter to 11 before we start tomorrow morning. So if you could be here anywhere between half an hour and a quarter of an hour before a quarter to 11, say by half past 10, then we can get going at a quarter to 11.

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LAVAC: Your Honour, before the jury leaves, perhaps I could remind you of something that you told us last week that you may speak to the jury about today.

25

HIS HONOUR: What's that?

LAVAC: In respect of the duration of the trial.

30

HIS HONOUR: What do you want me to remind them of?

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LAVAC: Well, initially it was estimated the trial would only go for two and a half, maybe three weeks. That estimate was revised last week and you said that you may say something about that to the jury.

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HIS HONOUR: Can you tell me what the current estimate is because I don't recall the witnesses. I don't know what it is.

LAVAC: At the rate we have been going, I think it will go probably longer than three weeks.

45

HIS HONOUR: So three weeks would be the end of next week, wouldn't it?

LAVAC: Yes.

50

HIS HONOUR: So you're saying it might even go for a fourth week?

LAVAC: Possibly, your Honour.

55

HIS HONOUR: All right. All right, well, members of the jury, I pass that information on to you. Thank you very much. We will see you tomorrow morning.

IN THE ABSENCE OF THE JURY

CROWN PROSECUTOR: I return exhibit E and also exhibit K.

5 HIS HONOUR: All right. (Handed up.)

MFI #7 STATEMENT OF SIMON CALLAGHAN

10 HIS HONOUR: Can I make a suggestion? It's only a
suggestion. The counsel have to work this out. When we
go for this view on Wednesday, if you are going to be
relying, as you appear to be, Mr Prosecutor, about
particular people being at particular police stations,
15 particularly that police constable, for example, I must
say from my part I find it much less confusing if she were
there and could actually tell someone while we were all
there exactly where she was. I find this combination of
sketches - that are not drawn to scale understandably
20 because the people are not surveyors - and videos very
hard to understand. It's very hard to follow.

When that constable first talked about where she was with
reference to the still picture, of the downstairs area, it
appeared to me she was well up to the left back area.
25 When I saw the sketch, it appeared to me she was saying
she was somewhere near the middle. I'm still somewhat
perplexed about where it is she said she was. I know
you've tried to enlighten us by saying she was standing
directly underneath the - sitting directly underneath the
30 cavity between the two floors. That might be something.
But if particular people are going to explain particular
events, it's probably a good idea to have them there.
They might have to be cross-examined about this at the
time, partly, and maybe you've got to enlarge on it later,
35 and maybe the cross-examination has to enlarge on it
later, but I always found it useful to have somebody who
claimed to have been somewhere to say, "This is the point
I was. That's the point we moved to. This is another
point. That's another point."

40 We know where the landing is, for example. I'm not sure
whether that pot plant - I think it's in the area that it
was said to be in, but I'm not sure. It's all those sorts
of things that need to be made clear, otherwise the jury
45 are going to be in a complete muddle about where he was,
and I'm going to be in a muddle trying to explain it to
them, I think.

50 CROWN PROSECUTOR: It's regrettably the type of case where
a number of chaotic things happened in a short period of
time.

55 HIS HONOUR: That's right. In my experience from previous
views you can have one person who knows something of where
it is said particular people were and, say, the video will
show the group of people were moving in that video, this
is where they first came from at this point and that's

where they moved from in that point. It just makes it so clear. Even the front door, as it's shown in the video, I find hard to see. I'm sure once I've seen it I won't, but at the moment I find it quite obscure.

5

CROWN PROSECUTOR: Yes, your Honour. There is one final matter and there's a note that's been handed to me. I will show my friend. It was handed to me this afternoon while we were at the Bar table, your Honour (handed to Mr Lavac). I hand it up to your Honour. I don't know if I can accommodate the gentleman. I am just making your Honour aware of it. (Handed up.)

10

HIS HONOUR: I direct that there be no publication of the name of Dr Moss. He should be identified merely as a medical practitioner from the Dee Why area. Neither his name nor the particular medical centre he is at should be identified, but his evidence can be published, of course. All right, well, I think we will adjourn for the day.

15

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ADJOURNED TO TUESDAY 6 FEBRUARY 2007

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THE DISTRICT COURT
OF NEW SOUTH WALES
CRIMINAL JURISDICTION

5 FINNANE J
AND A JURY OF TWELVE

SIXTH DAY: TUESDAY 6 FEBRUARY 2007

10 06/11/0581 - R v NIEROP

15 IN THE ABSENCE OF THE JURY

LAVAC: Before the jury comes in there is a matter I should raise. I have already raised it with my learned friend. This morning when I came to the court I was walking up around the corner in the street and I passed one of the jurors very closely. She was walking in the opposite direction and there was only a couple of feet between us as we passed each other. I deliberately averted my face and deliberately restrained from looking at her. I thought I should raise that, your Honour, for more abundant caution.

HIS HONOUR: That is fine. The young lady to the left of my associate is a German law graduate who is here as part of an official program and she is here for the week to observe what is going on in our criminal courts.

CROWN PROSECUTOR: Your Honour, I will hand up statements of Matthew Stacey who is the first witness, and Drew Mitchell.

HIS HONOUR: Thank you. We will go straight through, gentlemen, unless there is some urgent reason requiring us to stop between now and lunchtime.

CROWN PROSECUTOR: I only have these two witnesses this morning, but it will take us up to 1 o'clock.

HIS HONOUR: Make sure you have a good supply of witnesses. We don't want to be delayed.

CROWN PROSECUTOR: No, I have been endeavouring to do that.

50

55

IN THE PRESENCE OF THE JURY

5 HIS HONOUR: Thank you, members of the jury. You will
notice in court that we have two court reporters working
simultaneously, and on the other side of my associate is
a young lady who is a German law graduate. She is here
as part of an official program to German law students who
10 come to Australia, and they visit our courts to see how
our courts operate. Mr Prosecutor?

CROWN PROSECUTOR: I call Matthew Stacey.

15 <MATTHEW STACEY, SWORN(11.04AM)

<EXAMINATION-IN-CHIEF BY THE CROWN PROSECUTOR

Q. Would you please tell the court your full name and
your occupation?

20 A. Matthew Stacey. I'm a floor and wall tiler.

HIS HONOUR

Q. What sort of tiler?

25 A. A floor and wall tiler.

CROWN PROSECUTOR

Q. Do you know Mr Shane Bullock?

30 A. Yep.

Q. How do you know Mr Shane Bullock?

A. We used to play football together.

35 Q. Is that with the Narrabeen Sharks?

A. Yes.

Q. What was the last year that you played football with
Mr Bullock?

40 A. 2001.

Q. Since 2001 have you also run into Mr Bullock from
time to time--

45 A. Yes.

Q. --around and about the place?

A. Yes.

Q. And on Saturday 8 April 2006 do you remember where
you had been during the day?

50 A. At the Narrabeen pub.

Q. In the evening whereabouts were you?

55 A. The Surf Rock, Collaroy.

Q. What was the name of the Narrabeen--

A. The Narrabeen Sands.

Q. Is that the Narrabeen Sands Hotel?

A. Yes.

5 Q. For about how long do you remember having been at that hotel that day?

A. Three our four hours.

Q. About what time did you leave that hotel?

10 A. About 9 o'clock.

Q. In the evening, do you mean?

A. Yes.

Q. Were you there drinking alcohol?

15 A. Yes.

Q. What were you drinking?

A. Beer.

20 Q. Was that full strength or light?

A. Yes, full strength.

Q. Middy, schooner or--

25 A. Schooners.

Q. While you were at the Sands Hotel were you by yourself or with friends?

A. With other friends, yes.

30 Q. When you left the Sands Hotel where did you go?

A. To the Surf Rock at Collaroy.

Q. How long were you at the Surf Rock Hotel that evening?

35 A. Another four or five hours.

Q. What were you doing at the surf rock?

A. Drinking more.

40 Q. What were you drinking?

A. Beer.

Q. At some stage in the evening did you notice something happening in the area of the stairs?

45 A. Yeah.

HIS HONOUR

Q. Where were you in the hotel?

50 A. Upstairs.

CROWN PROSECUTOR

55 Q. I take it you came upstairs through the internal staircase?

A. Yes.

Q. When you get to the internal staircase to get to

where you were that night, which direction do you have to turn?

A. Turn right.

5 Q. And walk for how long and what distance?

A. Probably about 5 to 10 metres back.

Q. In a straight line?

A. On a right angle from the staircase.

10

Q. And were you standing or sitting where you were?

A. Standing.

15 Q. Where was the dance floor up there relative to where you were?

A. Not far from there, behind me.

Q. Behind you?

A. Yes.

20

Q. Which direction were you facing when you were up there?

A. Towards the stairs.

25 Q. And were you by yourself then or were you with anyone?

A. No, I was with another friend.

Q. Who was that?

30

A. Jason Quested.

Q. Q-u-e-s-t-e-d?

A. Yes.

35 Q. When did you first see him that night?

A. At the Surf Rock.

Q. Whilst you were with Jason did you see something happening with Shane?

40

A. Yeah, I saw two bouncers walk him down the stairs.

Q. So are you still in the same place when you see Shane being walked down the stairs?

A. Yep.

45

Q. And when you say that you saw two bouncers walking him down the stairs, can you describe the appearance of the two bouncers - their height, build, clothing, facial colour, and so forth?

50

A. One was a bit taller than me with peroxide hair.

Q. How tall are you?

A. 6' 2".

55 Q. Apart from hair and height what else did you notice about that person's appearance?

A. Just skinny - a bit skinnier than me and a bit taller, a bit built.

- Q. A bit built, a bit skinnier. How would you describe yourself?
A. Sort of fat.
- 5
- Q. When you say skinnier than you, what do you mean?
A. A bit more built than me, bit more muscle.
- 10
- Q. When you say "built" and "muscle", what are you talking about; what part or parts of the body are you talking about?
A. Upper body.
- 15
- Q. And what sort of facial colour, skin?
A. White.
- Q. What was the person wearing?
A. Black shirt, black pants.
- 20
- Q. You mentioned another person, another bouncer, what did that person look like?
A. Similar height to me, sort of parted hair, brown hair. Also white.
- 25
- Q. What sort of build?
A. A bit similar to mine maybe. A bit skinnier.
- Q. And the Shane that we are talking about, is that Shane Bullock; is that correct?
A. Yep.
- 30
- Q. You said you saw him with the two bouncers. What were they doing?
A. They were just walking him down the stairs at that stage.
- 35
- Q. How were they walking him down the stairs?
A. One by each arm.
- 40
- Q. Can you demonstrate how you mean?
A. Like that.
- Q. Holding--
A. Holding each arm like that.
- 45
- Q. With the back of your elbows back horizontally behind you?
A. Yep.
- 50
- Q. Are you talking about Shane's arms?
A. Shane's arms.
- HIS HONOUR
- 55
- Q. So one was holding each arm?
A. Yes.
- Q. Each side?

A. By each shoulder.

CROWN PROSECUTOR

5 Q. So both of them abreast side by side going down the stairs?

A. Yes.

Q. What was Shane doing?

10 A. From what I could see just walking down the stairs.

Q. Whereabouts were they on the stairs when you first noticed them?

A. Right at the top of the stairs.

15

Q. Do you mean actually on the upper level or on the first step down?

A. Right up the top just about to walk down.

20

Q. Did you notice if there were any other people around at the top of the stairs, in the general area there at that point?

A. No.

25

HIS HONOUR

Q. When you say that "no" do you mean there were no other people there or you didn't notice?

30 A. There were other people there but I didn't pay attention to who they were.

CROWN PROSECUTOR

35 Q. I take it you not only didn't pay attention but you can't say what other people were doing or not doing at the top of the stairs?

A. No.

40 Q. From where you were at this stage could you see directly across to the stairs or were things or people in your way?

A. No. As they walked down they disappeared. I couldn't see them anymore.

45

Q. What did you do?

A. Walked over to the top of the stairs.

Q. About how long after you saw them disappear did you walk over?

50

A. Pretty close to straight away.

Q. And when you walked over what did you see?

A. By the time I was standing at the top of the stairs they were already down the bottom on the landing.

55

Q. How were they on the landing; in what position or positions?

A. On the ground.

Q. Can you describe it a bit more than that?

5 A. Shane was in the corner up against the wall and the landing, and the two bouncers were standing over the top of him.

Q. You said that Shane was in the corner of the landing?

10 A. Yes.

Q. This is, I take it, the landing at the bottom of that first bit of stairs?

A. Yes.

15 Q. As you come down those stairs is there a wall at all on any of the sides of the stairs?

A. Yeah, there's a main wall, the main wall down the stairs.

20 Q. What side is it on as you come down the stairs?

A. Your right.

Q. When you talk about a corner on the landing, what do you mean?

25 A. There's also a bar right at the end, like a rail and he was in the corner of that and the wall.

Q. Imagine you are walking down the stairs. I want you to try and describe it to members the jury. You are walking down the stairs and you get to the landing; correct?

30 A. Yes.

Q. And then the landing basically has four corners?

35 A. Yes.

Q. Do you agree with that; there is a corner on the left immediately at the bottom of the stairs; there is a corner on your right immediately at the bottom of the stairs?

40 A. Yes.

Q. And then as you walk across the landing there is a corner on your left and another corner on the right at the other end?

45 A. Yep.

Q. Which corner are we talking about?

50 A. As you walk down on your right in the right-hand corner.

Q. The right-hand corner closest to the stairs?

A. No, furthest from the stairs.

55 Q. Did you notice any objects on the stairs apart from the people?

A. No, I didn't pay attention to that.