

asking rather than wandering onto something that you want to talk about.

LAVAC: Sorry your Honour.

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HIS HONOUR: The current witness Mr R it would appear when you come to cross-examine him you want to put to him that Senior Constable Hennessy attempted to persuade him that she had evidence from a video showing that what he was saying couldn't be true, or couldn't be right. Let's assume it went so far as that. Let's assume for the moment for the purpose of the argument that Senior Constable Hennessy was doing this because she thought badly of your client as a result of what other people had told her. That some police officer had said to her, he's a bad fellow he threw me out last week you know, we ought to get him or something.

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~~R~~ WITNESSES R... told my Solicitor that Hennessy had told him months before trial that there was a CCTV tape of me banging the commando's head down the stairs, Crown witness Mitchel said the same thing. It was established that 2 other staff carried him out by the arms. No head contact with ground or steps. No tape was ever produced.

5 She has some belief about him and that's what leads her to say this. Supposing she does say this, the fact is he has come along here to give evidence, notwithstanding her claims that she has a video. If she was trying to influence him, it had no affect at all, didn't influence him. He came and he's given the evidence. Hasn't had anything to do with him giving evidence. What your putting may be relevant if someone was taking proceedings for perversion of the course of justice against
10 Senior Constable Hennessy but they haven't or if they do, it's not in this trial. I can't see that it bears on anything.

15 LAVAC: If it happened it certainly could amount to an attempt to pervert the course of justice. This was a fatally flaunting--

20 HIS HONOUR: This is a person who has no evidence whatsoever to give about what occurred. The evidence against your client comes from other people, it doesn't come from police.

25 LAVAC: Your Honour the problem is however that because we already have evidence to the jury from Mr Drew Mitchell who very strangely says that he saw the victim dragged down the stairs, head bumping on the stairs as he goes down. That evidence is not in his witness statement. How did it get there?

30 HIS HONOUR: How did what get there? If it's not in his witness statement it didn't get there.

35 LAVAC: It's not in his witness statement, the only way that he could've given that evidence is because--

40 HIS HONOUR: How did it get there? I can suggest a number of things. The police here were suburban police. This is just a fight in a pub. They took quick statements, they didn't worry about going to enormous detail about it because it's just a pub fight. Why should we spend too much of police resources investigating it? That's one possible reason. Another possible reason is particular police took particular statements, weren't terribly interested and did it as quickly as possible. Another reason is they tried to get as much information as they could. The particular witness didn't say anything at the time and then came along and said something later. All these are possibilities but the fact that people may have, subsequent to the event, behaved in a way which on one view of it is discreditable, on another view of it it may be merely saying to a witness who has a version, look I've got to tell you, you've given me this version, there is another version available, you appreciate I've got videos, I'm telling you that now. You wish to pursue this version? Okay. Which wouldn't be particularly discreditable at all. But I am not conducting an inquiry, this is a trial. I can tell you now, unless I'm prepared to hear argument further on this, that unless you can

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persuade me there's something more relevant than this, I'm not going to allow this to be pursued.

5 LAVAC: Certainly if there was an attempt to pervert the course of justice in respect of Mr R, it obviously hasn't succeeded because he's come to court and given the evidence he's done. However it may well be that there was a successful perversion of the course of justice in relation to Mr Drew Mitchell. Because he gave that
10 precise evidence which is not in his statement.

HIS HONOUR: Nothing's been put to Mr Mitchell to suggest any police officer leaned on him to give false evidence. Where's the evidence that Mr Mitchell was leaned on to
15 give false evidence?

LAVAC: There's no evidence your Honour but he certainly gave--

20 HIS HONOUR: You can't just run a case that something--

LAVAC: --evidence at that, of something which wasn't in his statement, something which Karen Hennessy has told R--

25 HIS HONOUR: I'll give you the weekend, you can come along on Monday and you can try and persuade me. Unless you can persuade me I'm not going to allow a trial to go off into a side issue, which essentially is an attack on the credibility of police officers for not doing their duty properly in investigating something. The jury cannot give
30 a verdict on that and just running a semi-trial on that issue invites them to have at the forefront of their mind a totally irrelevant issue rather than the real issue in this case, which you announced, was self-defence or not
35 self-defence.

LAVAC: I appreciate that it's a collateral issue but it's my submission--

40 HIS HONOUR: It's utterly collateral and unless you can persuade me, I'm not going to allow it. If I don't allow it, what is the point of calling six or seven police officers merely to say they went along and I got a statement from this witness and I got a statement from
45 that witness? May be there's a police officer who can say I turned up on the night and this is what I saw outside. May be that's got some slight relevance. I saw blood on this man's face, he appeared to be dazed or something or I saw the two bouncers standing there and I saw people
50 throwing abuse at them. That might have some relevance. I'm not going to have a trial going on for another week, people being called to do nothing, say nothing of any substance. Monday morning, if I rule against you and you still insist on those police being called, well they'll be
55 called all right but I won't let you cross-examine them on this issue.

LAVAC: Your Honour that goes without saying.

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PIC'S + ombudsman's

*JOB.
They Failed*