

NSW Law Reform Commission

GPO Box 31

Sydney NSW 2001

Submission re the naming of Juveniles in Criminal Proceedings:

We refer to the current discussion paper No 22 re the Open Justice, Court and tribunal, access, Disclosure and Publication paper and wish to add to our earlier submission re this issue.

We are the parents of Tania Burgess who was murdered at the hand of DL on the 19th of July 2005 on the Central Coast. DL was originally convicted in 2008 but has subsequently appealed his conviction and Sentence and was subject of hearings before the NSW Court of Criminal Appeal (2017NSWCCA57 and 2018NSWCCA302) where, by order of the Court, under the provisions of S15A of the Children (Criminal Proceedings) Act, 1987, the offender was not named.

Throughout the proceedings, in all courts, the defendant denied his involvement in the murder of our daughter, such denial continuing, as the prisoner now seeks release to Parole, his sentence due to expire on 18 July 2023.

We wish to make it perfectly clear that our view on the naming of Juvenile Offenders relates only to Serious Indictable offences, as we are not seeking a blanket removal of S 15A of the Children(Criminal Proceedings) Act, 1987 NSW, but stand by our view that the current operation of the Act, tends to encourage courts not to name Juvenile Offenders under any circumstances.

It should also be said that the court recognised that the murder of our daughter occurred as a “frenzied” attack, which is of little consolation to us, but it does reflect the abject seriousness of the crime and yet, despite all these factors, the Offender was not named, despite his prospects of rehabilitation being described By Hulme J, as “unclear”.

We have been advised by experts in Criminology that rehabilitation is a significant factor considered by courts when, not only deciding a Sentence, but also as to whether to name a Juvenile offender, but no-one has been able to identify, as to how naming an offender would be detrimental to rehabilitation.

Our view is that for a person to be truly remorseful, they must take full responsibility for their crime, and therefore to hide behind the veil of anonymity is not taking full responsibility for the crime.

Just last Friday, that being the 12th of February 2021, there was a matter before McClintock J. at the Downing Centre where an unnamed offender was before the court for facing charges of malicious infliction of GBH, on an eighty five year old woman, the offender being unable to be named, as he had previously been convicted, as a juvenile, over the murder of two persons.

Despite currently being the subject of an ISO, the offender still cannot be named. Clearly, bearing in mind his previous history, the fact that he has not been previously named, has not assisted him with his rehabilitation.

We do not seek the changes to Section 15A as a form of revenge or retribution. We have moved on from our anger but do not wish our daughters death to be without some lessons being learned by everyone involved in the administration of Justice.

As a result, we would seek that Section 15 A of the Children(Criminal Proceedings) Act, NSW, be preceded by Section 15 which reads:- “ the name of a person who commits a serious Indictable offence, for which the maximum sentence available exceeds 10 years will be published, subject to the exceptions detailed below” and then permit the various sub sections to exclude those offences where Cognitive Impairment and other probative factors, such as Mental Health are apparent from the evidence.

We seek this inclusion on the basis that the current S15A of the Act creates a general deterrent to publish the names of Juvenile Offenders, as was the case with our daughter.

Yours faithfully

Chris and Mandy Burgess



Dated 16/ Feb 2021



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