



AUSTRALIAN ADVOCACY INSTITUTE

DPP v EVELYN CANNON

SENTENCING PLEA

These materials include:

1. Instructions for all participants.
2. Instructions for counsel appearing in this matter
3. The Trial Materials

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DPP v Evelyn Cannon – Sentencing Plea

Summary and Introduction

Evelyn Cannon was convicted after trial of:

- (a) Conspiracy with Taras Shenko and others to traffic in cocaine; and
- (b) Possession of cocaine.

Ms Cannon is now before the court for sentencing.

Before her trial, Ms Cannon made an application for Bail, which was granted. She spent two months in custody before being granted bail.

Taras Shenko was granted bail on two sureties of \$50,000 each but failed to report to his local police station the following day, as was required by the bail conditions imposed on him. It was believed he fled the country for Russia and is being sought by Interpol and the Australian Federal Police.

12 months after Ms Cannon's arrest, the DPP determined that Shenko would not be found and that Ms Cannon should face trial alone.

Her trial was conducted on the basis of her instructions and consistently with her statement and her record of interview, that is, that she was not involved and that the police had got the wrong woman. She did not give evidence at the trial.

Full materials relating to the trial are found in the materials which follow.

2. Instructions for counsel appearing in this matter.

Since her conviction Ms Cannon has been in protective custody (for 4 weeks) and has been terrified that there will be reprisals from Shenko or his associates, particularly if her co-operation with the police becomes known.

She is 22. She has no prior convictions. She is the daughter of one of Australia's leading businessmen, whose company was making a bid for an important government contract at about the time of Evelyn's arrest.

She now instructs you that she was involved with Taras Shenko and would have pleaded guilty, but was concerned about her father's position and the possibility of any reprisals from Shenko. She had started gambling and using cocaine under Shenko's influence and owed him over \$5000. That is why she agreed to become involved as he asked in depositing the parcel and the key. He promised that would wipe out her debt. Shenko is a well known international drug dealer, connected with the Russian mafia.

Evelyn has a serious asthmatic condition which has required treatments since she was a child. This condition requires frequent emergency treatment, including short periods in intensive care.

She wanted to finish her schooling and go on to university, however was unable to cope because of her medical condition and dropped out of school at 16. From that time she has worked as a waiter at Luigi's Bar. She is apparently very competent and the owner of the bar has indicated he would be prepared to re-hire her.

Evelyn Cannon instructs you that she has now told her parents the truth and has stopped using cocaine. Through her solicitors she has forwarded a statement to the police, which is intended to assist them with their investigation into other drug deals and may be useful to pass on to the Russian authorities. Although she is very anxious, she instructs that she is prepared to give evidence against Shenko and others if they are apprehended.

Her father informs you that Evelyn regrets her involvement and the lies she told her family and the police. She told her father that, although she had told lies, she was not prepared

to tell lies under oath in court and therefore declined to give evidence at her trial. Her father is prepared to give evidence and will be available in court if necessary.

The police have indicated to the prosecution that they cannot confirm Cannon's instructions as to becoming indebted to Shenko. With respect to the statement provided by way of possible assistance the prosecution say it is of limited value because Shenko has fled. They believe she still uses cocaine and her utility as a witness has been compromised by the signed statement provided in support of her *nolle prosequi* application. However, they can confirm that the information provided has been "of some limited help" to them in their investigations of others in Australia connected with Shenko.

You should assume that the sentencing judge is already aware of other (unrelated) sentencing cases throughout the Commonwealth consistent with the principles articulated in *Hili* (2010) and *Pham* (2015).

3. Materials relating to the TRIAL - DPP v Evelyn Cannon

STATEMENT OF PAUL O'ROURKE

I am a Senior Constable of the Australian Federal Police stationed with the Drug Squad based in Melbourne.

As a result of information received about a likely drug drop in Canning St, Carlton, near Luigi's Bar, I went to Canning Street, Carlton, on surveillance duty.

At about 11.00pm on 3 October, I parked my unmarked vehicle opposite Luigi's Bar. I alighted from the vehicle, walked north and took up a position opposite the telephone box which was on the other side of the street.

The traffic was medium and there were a few people moving about on the footpath.

At about 1.00am on 4 October, I saw a person I now know to be Evelyn Cannon come out of Luigi's Bar. I had a good clear view of her and noticed that she was wearing a black overcoat, black stockings and ankle boots. She was about 170cms tall, of medium build and had short blond tipped hair.

She walked north along the footpath. She then entered the phone box and closed the door. She looked around furtively, reached into her large tapestry handbag and withdrew a small silver box and placed it underneath the phone stand. She then left the phone box.

She crossed Canning Street diagonally to where my car was and then walked south down Canning Street. I lost sight of her. As she was crossing the road I noticed that her hair was spiked on top, she wore large hooped earrings and red framed glasses.

I continued my surveillance and at 1.10am saw a black Jaguar TS 0173 stop beside the telephone box.

A person I know to be Taras Shenko alighted from the Jaguar, went into the telephone box and appeared to remove the silver magnetic box. I arrested him and removed the box from the lining of his overcoat. In it was a Southern Cross Station Locker key No 013.

I cautioned Shenko and said: "We've got you this time Taras." He replied, "You may have got me but you will never prove it. You missed Evie and she has the key to it all. If you ever find her she will give you an alibi you will never bust." I tape recorded this conversation.

I subsequently recovered a parcel from locker No 013. It contained a powdered substance which upon analysis proved to be cocaine. Its value is approximately between \$90,000-\$100,000.

Next evening I went to Canning Street and prepared the sketch plan of the area. (Produced). Whilst I was there I noticed the waitress who was serving coffee and recognised her as Evelyn Cannon. She had changed her hairstyle, it was no longer spiked. I heard her speak to the proprietor Luigi. She said "Did you know Taras was busted last night just outside here." Due to the noise of the espresso machine I did not hear any further comments. I later ascertained from Luigi that Evelyn Cannon lived at 13 Black Street, Kew.

I had earlier obtained a photograph of Evelyn Cannon which has a notation on the back "January, last year".

I had also interviewed Peter Porter who identified the photograph as being of a woman like the woman who hired locker No 013.

At about 3.00 pm on 6 October I went to 13 Black Street, Kew where I spoke to Evelyn Cannon. After I confirmed who she was, I said, "It is alleged that you were involved with Taras Shenko in a cocaine deal." She said, "You've got the wrong woman."

I asked her to come down to the station, where I conducted a formal record of interview which was tape recorded.

I produce a transcript of that interview.

Statement made – 5.30pm on 6th October.

EXTRACTS FROM PAGES OF O'ROURKE'S DIARY

- 1/10 Informer (Code "Deep Throat") makes contact. Says cocaine deal is being made. Coke will be left in locker at Spencer Street. Key to locker will be concealed in telephone box near Luigi's in Canning Street in early hours of the morning in four days time.
- 3/10 **11.00 pm.** Park unmarked car in Canning Street on western side of the road opposite Luigi's Bar. Surveillance position - opposite telephone box.
- 4/10 **1.00 am.** Woman approaches phone box, enters, places container under phone stand, exits crosses the road and walks away.
About 179 cms, medium build, wearing black coat.
1.05 am. Jag TS 0173 beside phone box. Male (Taras Shenko) enters phone box, arrested. Find container in lining of coat with locker key 013.
- 5/10 Attend offices of AFP. Access Shenko on computer. Evelyn Cannon listed as known female associate. Shenko suspect in large scale cocaine importing but never before arrested.
Given photograph of Cannon dated January.
Take statement from Porter. Porter identifies person in photo as that of Cannon.
Attend scene. Identify Cannon at Luigi's. Overhear conversation.
- 6/10 Attend 13 Black Street, Kew. Conversation with Cannon. Cautioned. Allegations put. Comment "I think you've got the wrong woman".
Taken to HQ. Further interview. Wearing glasses. Denials.
Short statement produced later.

STATEMENT OF PETER PORTER

I am in charge of the luggage lockers at Southern Cross Station. These are available for rent each day for \$1.00. We keep records of the lockers used.

Some time after 9.00 am. on 3 October I rented the last available locker to a tall blonde woman with spiked hair. That was locker No 013.

She gave her name as Carmel and signed the book C. O'Caine, Canning Street, Carlton.

I remember that she had large earrings which stood out and looked nice because of her short hair.

She was very friendly and chatty. She asked if there were more than one key to the locker. She said she had a Russian friend who might pick up the parcel.

I assured her that there is only one key per locker and we do not have access to the lockers once the key is given out.

I saw her place a brown paper parcel in the locker after she got the key.

On 5 October I was visited by Senior Constable O'Rourke. And I told him what happened on the 3rd.

He produced a photograph of a woman and asked me if she looked like the woman who rented locker 013. The woman in the photograph had large hooped earrings and short blond spiked hair.

I said that it did look like Carmel O'Caine.

Signed
P. Porter
5 October

Record of interview

Record of interview between Senior Constable O'Rourke and Evelyn Cannon, conducted on 6 October last year.

Interview commenced at 4.00 p.m.

Senior Constable O'Rourke asking questions. The interview was tape-recorded.

Q1 Your full name is Evelyn Cannon and you live at 13 Black Street, Kew Is that right?

A Yes.

Q2 How old are you?

A 22, nearly 23.

Q3 I wish to interview you in relation to a conspiracy to supply cocaine and to the possession of cocaine. Before I do so I must inform you that you are not obliged to say or do anything and that anything you do say or do may be given in evidence. Do you understand that?

A Yes. What's a "conspiracy"?

Q4 "Conspiracy" means an agreement. I must also inform you that you may communicate with a friend or relative to inform that person of your whereabouts, or a legal practitioner. Do you understand those rights?

A Yes.

Q5 Do you wish to exercise any of those rights?

A No.

Q6 Do you understand why you are here today?

A You asked me down, I don't know why.

Q7 It is alleged that you conspired with Taras Shenko to supply cocaine. What do you say to that?

A I had nothing to do with it.

Q8 Well, you were working at Luigi's on the 3rd & 4th of October, weren't you?

A Yes, I was.

Q9 I saw you leave Luigi's and enter the nearest phone box where you deposited a key to a locker which contained cocaine.

A You didn't see me. You've got the wrong woman.

Q10 Do you know Taras Shenko?

A Never heard of him. No wait, I think I know who you mean. I think he is a customer but I don't know him. I have had nothing to do with him.

Q11 I heard you tell Luigi, your boss, that you knew that Taras was arrested outside the phone box.

A OK, I might have been set up.

- Q12 What did you do after you left work at about 1am?
A I walked past the telephone box and got a taxi home.
- Q13 Do you own a black overcoat?
A Yes I do. I just got it. As a matter of fact, as I walked past the phone box I saw another woman in a coat just like mine, near the door of the phone box. It struck me because I thought that mine was a one-off.
- Q14 You were identified by a man at Southern Cross Station as the woman who deposited a parcel which we found to contain cocaine.
A It wasn't me.
- Q15 I showed him this photo of you (shown to the defendant).
A Yes but I haven't looked like this for a long time! Not since May, when I got back from Bali.
- Q16 What do you mean?
A I changed my hairdo after I got back from holidays, months ago and I don't wear hooped earrings anymore. I swapped them for a Balinese painting.
- Q17 Do you wear glasses?
A Only for reading and sunglasses.
- Q18 Do you have a large tapestry bag?
A No. Only this normal sized, red leather bag.
- Q19 Tell me why you happened to be at the phone box just before Shenko turned up?
A I am not answering any more questions. I want to see my solicitor.

Interview terminated 4.40 pm

EVELYN CANNON STATES :

I am a waitress at Luigi's Bar. Two days before I was arrested I remember leaving the Bar at about 1.00 am. just before closing time. I walked North up Canning Street looking for a taxi. I saw a taxi pull up opposite the 24 hour video shop. I walked quickly towards it. As I passed the phone box I noticed that there was a woman near the door of the phone box. There were other people about but I remember her because she was about my own height and wearing a black coat similar to mine. I continued past her and got the cab home to Kew where I live alone. I did not go into the phone box or leave any box or key there. I know a Russian man Taras Shenko. He has been to the bar many times over the last six months before my arrest. He has bought me a few drinks there but I've never been out with him. Next day I heard that he had been arrested.

I was afraid to tell the police more about me and Taras Shenko because they would associate me with him, as they have done.

I have no previous convictions and I deny that I was in any way involved with drugs with Taras Shenko.

Signed: **Evie Cannon**
E. Cannon

LUIGI FIORELLI STATES

I am the proprietor of Luigi's Bar in Canning St, Carlton. I employed an old girlfriend of mine, Evelyn Cannon, as a waitress in my bar 5 years ago. I have known her since school days and since she has been working for me we are just good friends. Evie had blond spiked hair on and off for ages. I didn't like it very much. She changed it when she got back from Bali. I complimented her on it and said it made her look more elegant. She did not spike it from then on. On 5 October last year Evie was working behind the bar making cappuccinos. She told me that a customer of ours, Taras, was arrested the night before outside the bar. She went on to say "You know he has been asking me out. He is Russian, but he speaks good English. I'm glad I kept away from him. He's obviously a bit dodgy". I said "You can't be too careful".

Later that night I spoke to a policeman who came into the bar. He asked me where Evie lived and I told him. He didn't ask me to make a statement.

I've been in trouble with the police twice. 10 years ago I had 2 marijuana plants in a pot on my balcony and had to do 50 hours community work for that.

Last year I was convicted of assaulting a customer who was drunk. The Magistrate realised I had to get rid of the customer and gave me a bond.

Statement made to Evelyn Cannon's solicitor two weeks ago

