



**AUSTRALIAN ADVOCACY INSTITUTE**

# **DPP v EVELYN CANNON**

## **PLEA**

**[QUEENSLAND]**

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**Format SW**

# DPP v Evelyn Cannon

## Plea Instructions

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Assume that Evelyn Cannon was convicted of possession of cocaine but acquitted of supply at her trial in the Supreme Court of Queensland, at which you were her Defence Counsel.

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.

You are now instructed to make a plea on her behalf.

The prosecution have retained the Ms Cannon's signed statement which was forwarded to the prosecution in support of her application for nolle prosequi.

Evelyn Cannon 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. Approximately six weeks after her arrest she was granted bail on strict conditions. These included twice daily reporting, living at home with her parents and not contacting Taras Shenko.

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. He has now apparently left the country and is still being sought by Interpol and the Australian Federal Police.

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. She has since worked as a waiter at Luigi's Bar. She is apparently very competent and her job there is still available to 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 "can say" 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.

Since her conviction she has been in protective custody for about 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. 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. 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 "can say" statement they 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.

## **PREPARE AND PRESENT A PLEA IN MITIGATION.**

### **Attached are:**

The Bail Application Materials (follows)

The Trial Materials, DPP v Evelyn Cannon (follows)

## **DPP v Evelyn Cannon - Bail Application**

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Ms. Cannon has been charged with supply cocaine and with possession of cocaine. Her co-accused is Taras Shenko. Taras Shenko was granted bail a week ago. He failed to report to his local police station the following day, as was required by the Bail conditions imposed on him, and is believed to have fled to Moscow.

**Assume that this application is being made two weeks after Ms Cannon's arrest.**

The trial is likely to be listed in The Supreme Court in approximately 12 months time.

Ms Cannon intends to plead "Not Guilty" at the trial. She instructs that her statement and her record of interview are correct.

You have been served with the police brief which contains:

- 1. Additional Statement by O'Rourke for the Bail Application (follows here)**
- 2. Complete copy of the Trial Materials: DPP v Evelyn Cannon (follows here)**

Ms. Cannon has provided you with these additional instructions, which you communicated to the prosecutor in an attempt to get him to consent to Bail:

1. She is 22 years old.
2. When aged 17, Ms. Cannon started using drugs, mostly cocaine. She stayed away from home for days at a time, until her parents told her to leave and not come back until she had a better attitude.
3. For the next 5 years, Ms. Cannon lived with two older friends.
4. During this time, Ms. Cannon used marijuana and cocaine regularly, whilst working casually as a waitress in various restaurants and at Luigi's.
5. A week before she was arrested on the present charges, Ms. Cannon was charged with possession of marijuana, as were two of her friends, who were the owners of the house. The police raided their house and they were all arrested. Her friends had marijuana and other drugs. She did not have anything in her possession.
6. Ms. Cannon was granted bail to appear at the Magistrates' Court a week ago. She appeared but on the morning of the hearing, the charge against her was withdrawn, but her two friends received short jail sentences as they had a number of previous convictions.
7. About 1 week before her arrest on these charges, Ms. Cannon moved back into her parents' home and vowed to give up drugs. Four days before she was arrested, her parents secured a place in a private drug rehabilitation centre close to their home. She had been attending the centre for only three days when she was arrested.

8. If granted bail, Evelyn intends to continue her treatment. She has had no contact with her two friends after they were released from jail. The rehabilitation course will take between six and twelve months and the only way that she and her parents can pay for that course is if Evelyn works part time as well.
9. When she was living with her two older friends, one of whom was Russian, she was introduced to Taras Shenko. He started visiting Luigi's Bar, buying Ms Cannon drinks and asking her out. She told him that she didn't want anything to do with him.
10. Three days ago, Ms. Cannon made a phone call to her sister, Tamsen. She calls her sister Taz from time to time, particularly when she is sad and is missing her family.
11. Evelyn's parents are prepared to put up a surety. Evelyn is prepared to report regularly, not apply for a passport and not have any contact with Taras Shenko if and when he is located.
12. Ms. Cannons employment at Luigi's Bar is available to her if she is released on bail. She is keen to earn some money to pay for her defence.

## O'Rourke's Additional Statement in relation to Bail

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(a copy of which has been provided to the Defence)

In addition to his statement and diary notes, O'Rourke has instructed you of the following matters:

1 In addition to the parcel containing cocaine that was located in locker 013, there were also the following items in the locker:-

- A fake Russian passport for a woman called Evie Tansk. The photograph of the woman in the passport, although not of Evelyn Cannon, looks almost identical to her; and
- A letter addressed to "Evie" from Taras Shenko in which he said:

*"Dearest Evie,*

*If I have to leave, you know what to do. Take care of the next delivery and it will all be worth it. The spare passport is where we discussed it would be. Soon, we'll be dancing together in the streets of Moscow. You will finally be able to ditch your middle class parents forever.*

*Love you,*

*Tazza"*

2 At the time the Informant made his statement, he had been awake for most of 48 hours. He instructs that his failure to include the information about the passport and the letter in his statement was simply an oversight due to fatigue.

3 Evelyn Cannon failed to appear 4 years ago. She was on bail in relation to a charge of possession of marijuana.

4 A prison officer told him that she overheard Ms. Cannon on the phone 3 days ago to someone who she, at one point referred to as Taz. Ms. Cannon finished the conversation with "Love you heaps" and hung up. The prison officer has gone on an African safari for three weeks and is not able to be contacted.

5 Every attempt is being made to track down Taras Shenko and enquiries have been initiated with the Russian Police. Russia has an extradition treaty with Australia.

6 Enquiries reveal that if no delay is caused by the extradition process, the joint trial could be heard in approximately twelve months time.

If Taras Shenko is not found and extradited, the prosecution intends to proceed against Evelyn Cannon alone.

## **Materials relating to TRIAL - DPP v Evelyn Cannon**

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### **DPP v EVELYN CANNON**

#### **Instructions**

Evelyn Cannon has been charged with Taras Shenko and others with supply cocaine and with possession of cocaine.

She was committed for trial. She could not afford to be represented and witnesses were not cross examined. The prosecution brief is attached.

Attached also is Evelyn Cannon's statement sent to the police by her solicitor and a statement from Luigi Fiorelli. These were made available to the prosecution by the defence in an attempt to persuade the prosecution not to proceed.

Taras Shenko has not been found and the trial will proceed against Evelyn Cannon alone.

Evelyn Cannon instructs that what she said in her statement is correct. She also confirms that, as far as she can recall, the record of interview is correct.

When she was asked in Q.10 if she knew Shenko, she became frightened but shortly after conceded that she knew him.

You are instructed to prepare for the trial, both for the prosecution and the defence in accordance with your allocated roles.

At a preliminary hearing the judge ruled that the evidence of the conversation between Constable O'Rourke and Shenko is not admissible.

Specific roles will be allocated before the trial.



## **STATEMENT OF PAUL O'ROURKE**

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

As a result of information received about a likely drug drop in Brunswick St, New Farm, near Luigi's Bar, I went to Brunswick Street, New Farm, 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 Brunswick Street diagonally to where my car was and then walked south down Brunswick 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 Brunswick Street 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. Our customers will be terribly disappointed." I tape recorded this conversation.

I subsequently recovered a parcel from locker No 013. It contained many small plastic bags of a powdered substance which upon analysis proved to be cocaine. Each ten of these small bags were in another plastic bag with a code name which appeared to refer to individuals. Its total value is approximately between \$90,000-\$100,000.

Next evening I went to Brunswick 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 hair style, 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, Nundah.

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, Nundah, where I spoke to Evelyn Cannon. After I confirmed who she was, I said, "It is alleged that two days ago you were involved with Taras Shenko in a cocaine deal with intent to supply the drugs to small dealers." She said, "You've got the wrong woman."

I arrested her and conveyed her to the Police station where I conducted a formal record of interview which was tape recorded.

I produce a transcript of that interview.

At about noon on 7 October a local solicitor came to the station. She said that she had asked her client to write a statement which she produced. She said "Maybe this will help you to drop these charges."

**Statement made – 5.30pm on 7<sup>th</sup> 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 Brunswick Street Station. Key to locker will be concealed in telephone box near Luigi's in Brunswick Street in early hours of the morning in four days time.
- 3/10 **11.00 pm.** Park unmarked car in Brunswick 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, Nundah. 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 Brunswick Street 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, Brunswick Street, New Farm.

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**

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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, Nundah. Is that right?

A Yes.

Q2 How old are you?

A 22, nearly 23.

Q3 I wish to interview you in relation to a charge of 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.

Q4 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 were involved 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 3<sup>rd</sup> & 4<sup>th</sup> 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 Brunswick Street 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 :**

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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 Brunswick 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 Nundah 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: 10 am, 7 October

**Evie Cannon**

E. Cannon



## **LUIGI FIORELLI STATES**

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I am the proprietor of Luigi's Bar in Brunswick Street, New Farm. 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 as far as I know, at least not at work. 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". I don't remember that night particularly, except that in that week Evelyn worked the night shift which finished at about 1am.

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**



STREET LIGHT



Brunswick Street

12 m

GLASS  
PHONE  
BOX

STREET LIGHT



LIGHT



DOOR

STREET LIGHT



LUIGI'S BAR

VACANT SHOP

24 HOUR VIDEO SHOP