

Laughton v Brennan [2007] NTSC 10

PARTIES: LAUGHTON, Margo Ruth

v

BRENNAN, Michael David

TITLE OF COURT: SUPREME COURT OF THE
NORTHERN TERRITORY

JURISDICTION: SUPREME COURT OF THE
NORTHERN TERRITORY
EXERCISING TERRITORY
JURISDICTION

FILE NO: JA 42 of 2006 (20613385)

DELIVERED: 16 February 2007

HEARING DATE: 16 February 2007

JUDGMENT OF: RILEY J

REPRESENTATION:

Counsel:

Appellant: In person
Respondent: D N Lewis

Solicitors:

Appellant: In person
Respondent: Office of the Director of Public
Prosecutions

Judgment category classification: C

Judgment ID Number: ril0708

Number of pages: 5

IN THE SUPREME COURT
OF THE NORTHERN TERRITORY
OF AUSTRALIA
AT DARWIN

Laughton v Brennan [2007] NTSC 10
No JA 42 of 2006 (20613385)

IN THE MATTER OF the *Summary
Offences Act*

AND IN THE MATTER OF an appeal
against sentence handed down in the Court
of Summary Jurisdiction at Darwin

BETWEEN:

LAUGHTON, Margo Ruth
Appellant

AND:

BRENNAN, Michael David
Respondent

CORAM: RILEY J

**EX TEMPORE
REASONS FOR JUDGMENT**

(Delivered 16 February 2007)

- [1] In this matter the Crown has conceded the appeal.
- [2] The appellant is self-represented. On 20 July 2006 she appeared in the Court of Summary Jurisdiction charged with an offence contrary to s 53A(2) of the Summary Offences Act. That section creates the offence of failing to stop or abate noise after midnight. An exchange took place between the

learned sentencing magistrate and the appellant from which the learned sentencing magistrate presumed a plea of guilty had been entered. He proceeded to impose a fine upon her in the amount of \$400 with a victim levy of \$40.

- [3] The appellant lodged an appeal in which she identified her grounds of appeal as being:

“Because I am not guilty of the calling for undue noise (original) to my premises on the said date.”

- [4] It seems that the real issue is whether the appellant in fact pleaded guilty and whether his Honour was correct to proceed with the matter as he did.

- [5] Reference to the transcript of the proceedings reveals his Honour asking of the appellant:

“You are apparently pleading guilty to this offence, are you?”

To which the appellant responded:

“Yes, sir, I intend to tell the truth the whole truth”

The matter then proceeded in the following way:

“HIS HONOUR: Are you listening to me, Ms Laughton, are you going to plead guilty today?”

MS LAUGHTON: Yes.

HIS HONOUR: Just stand there and the prosecutor will put the charge to you, then when you’ve pleaded guilty I’ll invite you to sit

down next to him at the table and he'll tell me what he says are the circumstances. When that's finished unless you disagree with what he's told me I'll proceed to find you guilty and then you'll have the opportunity to tell me whatever story it is you want to tell me, do you understand that?

MS LAUGHTON: It's not a story I'm telling you, it's going to be the facts.

HIS HONOUR: All right. You'll have the opportunity to tell me whatever you say the facts are.

MS LAUGHTON: Thank you.

HIS HONOUR: Yes.

CHARGES READ BY MR O'NEILL

MR O'NEILL: To the charge do you plead guilty or not guilty?

THE DEFENDANT: Yes, you've got two charges there, one about the undue noise and the other one about - - -

HIS HONOUR: There's only one charge, madam, the other one's the particulars.

THE DEFENDANT: - - - socialising or something. There was two, they told me at the front desk, one about the undue noise and the second one about socialising.

HIS HONOUR: Madam, if you don't listen to me all you're going to do is be here for half an hour or, even worse, stand down until this afternoon. Now you've pleaded guilty to the charge, can you now do what I said I was going to invite you to do, sit next to the sergeant and leave me to conduct the proceedings. Will you sit down next to the sergeant at the table please. You are now required to listen to what he says so that I can hear from you after he's finished as to whether you disagree with anything.

Yes, sergeant."

- [6] The prosecuting sergeant then read to the learned sentencing magistrate the facts put forward by the prosecution which referred to loud music emanating from the premises of the appellant in Parap Road at Parap, visits by police and the issuing by the police of a Summary Infringement Notice. When asked whether she had anything to say the appellant entered into a relatively lengthy monologue, most of which seemed to have little to do with the allegations made against her. However in the course of what she had to say she mentioned the visit by the police who asked her to turn her music down and she said: “I endeavoured to explain to them that the undue noise was not caused by me and I’m not responsible for it.” She said that when the police arrived a second time she invited them inside because she wanted to show the police her “music box, that none of the music was on and how loud it was in my home and it couldn’t be any more louder outside ...”. The police officer declined the invitation to come inside.
- [7] Reading the transcript it appears that the appellant did not intend to plead guilty at all but, rather, to contest the allegation. She did not plead guilty despite her earlier indication that such was her intention.
- [8] A plea of guilty must be unequivocal. In *Maxwell v The Queen* (1996) 184 CLR 501 Dawson and McHugh JJ said at 511:

“The plea of guilty must however be unequivocal and not made in circumstances suggesting that it is not a true admission of guilt. Those circumstances include ignorance, fear, duress, mistake or even the desire to gain a technical advantage. The plea may be accompanied by a qualification indicating that the accused is unaware of its significance. If it appears to the trial judge, for

whatever reason, that a plea of guilty is not genuine, he or she must (and it is not a matter of discretion) obtain an unequivocal plea of guilty or direct that a plea of not guilty be entered.”

[9] In the present case there was no unequivocal plea of guilty. The whole tenor of the remarks of the appellant indicated an intention to deny the allegations made against her. The learned magistrate should have entered a plea of not guilty on her behalf. He failed to do so.

[10] The Crown correctly conceded the appeal. The conviction and the sentence imposed are quashed. The matter will be remitted to the Court of Summary Jurisdiction for hearing before another magistrate.
