

CITATION: *Rigby v Mohammad Paul Corpus* [2023] NTLC 6

PARTIES: Kerry Rigby

v

Mohammad Paul Corpus

TITLE OF COURT: LOCAL COURT

JURISDICTION: CRIMINAL

FILE NO(s): 22130865

DELIVERED ON: 24 March 2023

DELIVERED AT: Darwin

HEARING DATE(s): 23 November 2022 and 6, 7 & 17 March 2023

DECISION OF: Greg Macdonald

CATCHWORDS:

Firearms Act 1997 (NT) – s 58 and s 95 - Territory Parks and Wildlife Conservation Act 1976 (NT) – s 12 and s 122 - Territory Parks and Wildlife Conservation By-Laws 1984 – By-law 14 – firearms - parks and reserves.

Judiciary Act 1903 (Cth)
Firearms Act 1997 (NT)
Territory Parks and Wildlife Conservation Act 1976 (NT)
Summary Offences Act 1923 (NT)
Territory Parks and Wildlife Conservation By-Laws 1984 (NT)
Crown Lands Act 1992 (NT)
Native Title Act 1993 (Cth)
Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)
Parks and Reserves (Framework for the Future) Act 2003 (NT)
Evidence (National Uniform Legislation) Act 2011 (NT)
Criminal Code Act 1983 (NT)
Fisheries Act 1988 (NT)
Police Administration Act 1978 (NT)
Interpretation Act 1978 (NT)

He Kaw Teh v The Queen (1985) 157 CLR 523
Cole v Rigby [2023] NTSC 20
Domican v The Queen (1992) 173 CLR 555
Chamberlain v R (No 2) (1984) 153 CLR 521
Shepherd v The Queen (1990) 170 CLR 573
Jaeger-Steigenberger v O'Neill [2011] NTSC 42
Grosvenor v The Queen [2014] NTCCA 5
Talbot v Malogorski [2014] NTSC 54
Campbell v Arnold (1982) 13 NTR 7

Minister for Immigration and Border Protection v CQW17 [2018] FCAFC 110
Hammond v Lavender (1976) 50 ALJR 728

REPRESENTATION:

Counsel:

Complainant: Mr C Teng

Defendant: Self

Solicitors:

Complainant: ODPP

Defendant: Self

Decision category classification: B

Decision ID number: 2023 NTLC 6

Number of paragraphs: 34

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

No. 22130865

BETWEEN:

Kerry Rigby

Applicant

AND:

Mohammad Paul Corpus

Defendant

REASONS FOR DECISION

(Delivered 24 March 2023)

JUDGE MACDONALD

The Charges and Hearing

1. On 23 November 2022, Mohamad Paul Corpus (the Defendant) entered 'no plea' to 11 charges brought by the Complainant. The Court accepted those 'pleas' as of not guilty. The hearing took place that date, and briefly on 2 February 2023, then on 6 and 7 March 2023.
2. The charges arose following a goose hunting incident which took place on 8 September 2021 in a rural area known as Fogg Dam and Lambell's Lagoon, approximately 70km south-east of Darwin.
3. It was apparent from the outset that the Defendant questioned the Court's jurisdiction to hear and determine the charges.¹ That position was compounded by the Defendant's choice to represent himself, and not engage any lawyer for advice or appearance. The Defendant's lack of legal training did not assist the efficient hearing and determination of the proceedings, however the prosecutor on behalf of the DPP sought at all stages to ensure transparency and that the proceedings were conducted as fairly as possible.
4. It should be noted that, due to snippets in evidence of witnesses, various comments by the Defendant from the bar table and some limited questions put by him in cross-examination, some prospects existed for defence issues to be raised to an evidentiary threshold. For example, it appeared that the Defendant believed the other person he

¹ This appeared to be on the basis of the exception "*other than the aboriginal race*" contained in s 51(xxvi) of the Commonwealth Constitution until 1967, which was repealed by referendum, and some authorities and legislated provisions I concluded to be irrelevant. Had any real constitutional issue, including under s 122 of the Constitution, been raised at the outset or by the evidence, notices under s 78B of the *Judiciary Act 1903* (Cth) would have been directed for service.

accompanied on the hunting expedition held a shooter's licence.² There may have also been possible evidence concerning proximity to and supervision given by that person to the Defendant shortly prior to the officers referred to below encountering the Defendant, for the purpose of s 58 of the *Firearms Act 1997* (NT).³ Possible issues concerning identification, and permission to hunt given to the Defendant by a traditional owner for the relevant area also existed, albeit those issues generally became irrelevant.⁴

5. The 11 contested charges alleged contraventions of the *Territory Parks and Wildlife Conservation Act 1976* (NT) (TPWCA), *Territory Parks and Wildlife Conservation By-Laws 1984* (TPWC By-laws) and the *Firearms Act 1997* (NT) on 8 September 2021. By the conclusion of the hearing only three charges remained, being alleged contraventions of s 58 and s 95 of the *Firearms Act* and TPWC By-law 14(1)(a). Each charge entailed possession of a firearm as an essential element, with the contravention of the By-law also requiring the status of the relevant land to be a “*park or reserve*” (Reserve) under the TPWCA.
6. In summary, on 8 September 2021 numerous members of NT Police and conservation officers under the TPWCA were at the Fogg Dam viewing platform, engaged in a joint operation following information having been received that people were shooting geese in the Lambell's Lagoon Conservation Reserve (LLCR).⁵ They heard shots fired sometime after 6pm, then entered and drove four vehicles to the area from which the shots had been heard, which was at least 10 minutes' drive from their original location. Close to the area believed to be where the shots emanated from, the vehicles diverged into two groups of two, with the vehicles containing Officers Lunney, Manning, Jackson and McLachlan travelling along one side of a swamp, and the remaining two vehicles the other side.
7. On arriving at the area of the shots, the named officers came across a man walking out of a swamp with a shotgun broken over his left shoulder and at least one magpie goose in their right-hand. An interaction took place between the officers and the man with the shotgun and goose, at which time the firearm and a total of three geese were confiscated. Following refusing to state his name or provide any identification, the man departed the area on foot. The officers then proceeded to the other side of the swamp and spoke to a second man.⁶
8. Due to the allegations, evidence, and the Defendant's stance to the proceedings, six main issues arose for determination. Some of those entailed subsidiary issues, which are also discussed below. The primary issues are;
 - (i) Was it the Defendant who the officers encountered on 8 September 2021?
 - (ii) Was the Defendant within a relevant Reserve on that date?

² The High Court made clear in *He Kaw Teh v The Queen* (1985) 157 CLR 523 at 593 that (for offences other than of ‘absolute liability’) the defence of ‘honest and reasonable mistake’ needs only be raised to an evidential threshold, following which the Crown must disprove beyond reasonable doubt.

³ At least ten minutes elapsed between the shots fired by the Defendant or his hunting companion and the arrival of the officers on the scene. The issue could only have been exhaustively pursued through evidence from a Mr Newell, who the prosecution summonsed to attend, but did not seek a warrant in respect of.

⁴ Some suggestion in the oral evidence of officers concerning a ‘Sovereign’ issue also arose. The decision of *Cole v Rigby* [2023] NTSC 20, noting the authorities cited by way of *obiter* in paragraph [5], was then provided to the Defendant.

⁵ That included NT Police members Michael Lunney and Michelle Manning, and conservation officers Emma Jackson and David McLachlan,

⁶ Mr Newell, who did not attend the hearing – see footnote 3 above.

- (iii) Was the Defendant in possession of a firearm without a licence to do so?
- (iv) Was the Defendant carrying a firearm in a Reserve without a permit?
- (v) Did the Defendant refuse or fail to provide his name and address when requested to do so?
- (vi) If yes to (iii), (iv) or (v), is any defence made out on any charge?

Evidence and Findings

9. The three counts which remained by the end of the hearing were counts one, two and ten, being; unlicensed possession of a firearm, carry a firearm in a Reserve without a permit and, lastly, while in possession of a firearm, failure to provide name and address to a member of the Police Force. Those charges were alleged as contraventions of s 58 and s 95(a) of the *Firearms Act* and By-Law 14(1) (a) of the TPWC By-Laws.⁷
10. On 23 September 2022, relevant oral evidence was heard from conservation officers Emma Jackson and David McLachlan.⁸ On 6 March 2023, Parks and Wildlife Permit Officer Janet McLennan and Sergeant Michael Lunney gave evidence. Relevant documentary evidence tendered through various witnesses included four aerial photographs of the Fogg Dam and Black Jungle/Lambell's Lagoon Conservation Reserves (with superimposed Reserve boundaries cartographically drawn in green),⁹ Crown Lease in Perpetuity 02516 registered 21 March 2018 in favour of the Conservation Land Corporation, photographs of the shotgun seized on 8 September 2021, and a certificate issued under section 104A of the *Firearms Act* in respect of the Defendant.
11. Despite the Defendant's reluctance to engage in the proceeding through cross-examination of witnesses or adducing or giving any evidence (other than to confirm his First Nations heritage), he apparently conceded presence and the alleged interaction with the officers on 8 September 2021.¹⁰ A range of admissible and inadmissible evidence concerning identification existed, as did potential for s 114 of the *Evidence (National Uniform Legislation) Act 2011* (ENULA) to be raised. The accepted caution at common law in relation to the unreliability of identification evidence would also have been relevant.¹¹ Regardless of the possible disadvantage to his case, the Defendant's concession assisted in expediting determination of the issues.
12. On the first issue, I find that the first man encountered by officers on 8 September 2021 and now subject to the charges on file 2130865 was the Defendant, Mohammad Paul Corpus.
13. In relation to the second issue, I am satisfied through exhibits P2, P4, P8 and P10 that the officers believed they encountered the Defendant in the general vicinity of the LLCR. Although Sgt Lunney marked the location of where he first encountered the Defendant on Exhibit P10 as being within the Black Jungle Conservation Reserve, I consider that was simply an error in reading the aerial photographs and superimposed boundaries.

⁷ Withdrawal of 6 of the other 8 charges on file 22130865 and the legal complexities involved is referred to at [20] and [21] below. Withdrawn counts 9 and 11 also entailed some nuances concerning the interaction of laws.

⁸ The court accepted those officers held necessary appointment under s92 of the TPWCA, so also held the powers of a member of police via s 95 of that Act.

⁹ Those documents became exhibits P7, P8, P9 and P10, and include Northern Territory Government and Parks and Wildlife Commission logos at the top, and at their foot; "*Map produced by Parks and Wildlife Commission of the Northern Territory, 20/10/2021*". That is, the documents were made up after the incident of 8 September 2021 giving rise to the charges alleged, and their provenance was not the subject of any precise oral evidence.

¹⁰ Transcript – page 69

¹¹ *Domican v The Queen* (1992) 173 CLR 555 at 561 and the extensive authority which followed

Officers Jackson and McLachlan were intimately familiar with the geographic features of the relevant areas, and their evidence was that they were inside the LLCR when they encountered the Defendant with a shotgun and geese. I find their evidence comprising locations hand-marked in red on exhibits P1 and P2 (becoming exhibits P7 and P8) to be accurate depictions, including due to the specifics of conservation officer McLachlan's evidence.¹² That conclusion, however, does not amount to conclusive evidence that the Defendant was within a Reserve at the relevant time.

14. Exhibit P4, being a Crown Lease in Perpetuity (CLP) granted 21 March 2018 in respect of five 'Sections of Hundred of the Guy', includes a "Locality Diagram" for each of the Sections. By examination of the aerial photographs comprising exhibits P8 and P10 in conjunction with the Locality Diagrams on the CLP, I am satisfied beyond reasonable doubt that part of the area marked as "Black Jungle/Lambell's Lagoon Conservation Reserve" on exhibits P8 and P10 includes Section 1772 Hundred of Guy. However, simple vesting of an area of land in the Conservation Land Corporation does confer on it the status of a Reserve. Sections 12 of the TPWCA provides the process by which land becomes a Reserve, essentially by Gazettal of an Executive declaration of the Administrator. The only evidence of any Gazettal before the court is exhibit P11, which gave notice of the Minister having determined that various areas, including Section 1772, were to be granted under s 12(3) of the *Crown Lands Act* as a CLP to the Corporation. The grant of any legal interest in land to the Corporation does not also effect the establishment of that land as a Reserve, and there is no evidence of any Administrator's declaration before the court.
15. Due to their evidence of knowledge of the area and environs, I find it proven that the Defendant was situated where officers Jackson and McLachlan marked as locations on what became P7 and P8. However, proof to the necessary standard is also necessary of the status of Reserve for the purpose of count two.¹³
16. That proof would have been readily adduced by tender of any Gazettal published notifying an Administrator's declaration of the LLCR, which presumably would include precise details of the extent of the Reserve. As matters stand, the Court is left with the prospect of inferring both that the LLCR has been established in accordance with s 12 of the TPWCA and that the cartographic green lines drawn on the aerial photographs which became exhibits P7 to P10 inclusive are accurate and truly follow the boundaries of the LLCR.¹⁴
17. I note the principles and restrictions which apply to proof beyond reasonable doubt by inference, particularly in relation to the elements of any offence, and perhaps to facts on which guilt on an element may be found.¹⁵ Having regard to the extent of the direct evidence from witnesses and through documents exhibited, I consider no reasonable or rational inferences or hypotheses are available other than that the land on which the Defendant was found is lawfully established as the LLCR, and that the green cartographic lines are accurately or correctly marked.

¹² Transcript pp 69 to 73.

¹³ I also note the evidence of P&WC permits officer Janet McLennan that traditional owners did not need a permit. That potentially raised issues touched on in paragraphs [20] and [21] below. However, although of First Nations heritage, the Defendant did not give evidence of being a traditional owner (or a person who had been granted permission in accordance with Aboriginal tradition).

¹⁴ Noting that the relevant location of the Defendant on 8 September 2021 is marked quite closely to what the officers understood to be the boundary of the LLCR.

¹⁵ *Chamberlain v R (No 2)* (1984) 153 CLR 521, *Shepherd v The Queen* (1990) 170 CLR 573 and, on *Jaeger-Steigenberger v O'Neill* [2011] NTSC 42 at [39] and *Grosvenor v The Queen* [2014] NTCCA 5 at [31].

18. In relation to the first inference, it is not reasonably possible that the Parks and Wildlife Commission would be conducting itself in the way it has if the LLCR did not legally exist.¹⁶ In relation to the second inference, I note the footer of the 'maps' comprising the relevant exhibits includes reference to data sources, including the Agency most competent in mapping.¹⁷
19. I find there is no reasonable doubt that the Defendant was, on 8 September 2021 when confronted by the officers referred to and found in possession of a shotgun, present on the LLCR.
20. That presence on the LLCR and the nature of the offending alleged had potential to cause other issues to arise. Six of the 11 charges brought on file 22130865 were directed to the "*protected wildlife*" provisions of Territory legislation, including in the context of a Reserve, the permit system, and other regulatory matters in relation to hunting wildlife.¹⁸ In the circumstances, including due to evidence given by conservation officers concerning assertions made by the Defendant on 8 September 2021, issues concerning First Nation rights through the *Native Title Act 1993* (Cth) and *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) attended those charges.¹⁹ Issues concerning contractual and other rights which may exist through Divisions three and four of Part three of the TPWCA and the *Parks and Reserves (Framework for the Future) Act 2003* (NT) would also have required consideration.
21. However, for one or more reasons of which the court is ignorant, on 7 March 2023 the six charges in relation to protected animals and wildlife were withdrawn. Consequently, it became unnecessary for the prosecution to tender any Joint Management Plan or Joint Management Agreement relating to the LLCR contemplated by the Territory legislation referred to.²⁰
22. The third issue for determination is whether the Defendant's possession of the firearm was without a licence. Despite that no body worn footage of either Sgt Lunney or the other attending member of NT Police was tendered, on the basis of the oral and documentary evidence adduced at hearing, there is no reasonable doubt that the Defendant intended to be and was in possession of firearm in public on 8 September 2021. The crucial aspects of the third issue are, first, whether the Defendant held any relevant licence under the *Firearms Act*? Second, if not, whether there is any defence in the Defendant's circumstances?

¹⁶ I note the difference between a "*reasonable*" and "*bare*" possibility or hypothesis, and that the Parks and Wildlife Commission is an emanation of the Crown. It is inconceivable that the Commission would manage and operate a Reserve where the land in fact had not been lawfully declared, and more so that it would be party to prosecuting charges reliant on Reserve status were it aware that element was not satisfied.

¹⁷ The Department of Infrastructure, Planning and Logistics, but also noting that the documents may well have been compiled on 20 October 2021 specifically for the purpose of the criminal proceedings. On its face, the photo-maps are admissible under s153 of the ENULA and presumed to be correct.

¹⁸ Sections 9, 12(1A), 22, 23, 25AJ and 122 (and Part 6) of the TPWCA and the *Parks and Reserves (Framework for the Future) Act 2003* (NT), including schedule 3.

¹⁹ Through terms of the legislative provisions at footnote 18. One of the people recognised by the Commission as a traditional owner was summoned by the DPP to give evidence, however that evidence was not ultimately led. See *Talbot v Malogorski* [2014] NTSC 54 and authorities cited therein concerning the complexities such interactive issues present, including s 71 and s 74 of ALRA.

²⁰ Production of those Instruments could have been compelled by the Defendant under Part 4.6 of the ENULA or by Summons to Produce, however his stance to the proceeding and self-represented status were impediments. Those possibilities do not obviate the prosecutorial duties.

23. A Certificate under s 104A of the *Firearms Act* became Exhibit P5. Due to the terms of s 5 and s 104A of that Act and of the Certificate, and Parliament's intent in passing s 104A, I am satisfied to the necessary standard that the Defendant was not authorised by a licence under the *Firearms Act* to possess the firearm.²¹ A bundle of PDF copy documents printed from an NT Police database was also sought to be tendered through Sgt Lunney, but marked MFI.²² That bundle sought to prove that in June 2020 a delegate of the Commissioner revoked a firearms licence held at that time by the Defendant, which proposition is consistent with Sgt Lunney's oral evidence. I decline to receive the documents into evidence for two reasons. First, the content relies on information indirectly supplied by a person in circumstances where identification may be assumed to be a real issue. Secondly, the operation and intent of s 69(3) precludes the bundle falling within the business records exception.²³ However, I accept Sgt Lunney's oral evidence that the Defendant's firearms licence had been revoked prior to 8 September 2021.
24. Due to the length of time between when the officers heard shots at Fogg Dam and when they arrived at the location of the Defendant and his hunting companion, had the Defendant or his companion given evidence concerning "in the company of, and under the supervision of", a defence under s 58(3) of the *Firearms Act* may have been raised.²⁴ However, accepting Sgt Lunney's oral evidence that the Defendant's licence had been revoked prior to 8 September 2021, s 58(5) (d) renders that defence inapplicable.
25. However, it was also contended by the Defendant in submissions that the NT Supreme Court authorities of *Campbell v Arnold* and *Talbot v Malogorski* should excuse the requirement to hold a firearms licence in the circumstances.²⁵ Although that position raises some of the issues touched on in paragraphs [20] and [21], and accepting that the Defendant was on the LLCR at the time, the Defendant's reticence to give evidence and the lack of evidence from any recognised traditional owner rendered the possible issues unable to be properly considered or determined.
26. Despite some analogies, the decision in *Talbot* (supra) is distinguishable from the subject issues, with the interaction here being between Territory laws of a different management and regulatory scheme and Commonwealth laws.²⁶ More relevantly, unlike in this matter, there was evidence from Appellant Mr Talbot of traditional rights and use, and customary law. The decision in *Campbell* (supra) is more apt to the potential issues in this proceeding, the relevant charge in that matter being against the *Firearms Act 1997*. The defence there was conferred by s 94(3) of the same Act, by reference to "another law in force in the Territory". Although there is now no such defence expressed in the *Firearms Act*, some aspects of s 29(1) of the *Criminal Code Act 1983* may be to similar effect.²⁷ However, the decision in *Campbell* relied on accepted evidence that Appellant Mr Campbell was a member of the language group which had traditional or customary responsibility for the land on which the act complained of occurred.

²¹ There is no need to resort to s 69 of the ENULA concerning business records (subsection (3) of which probably precludes it in any event). I consider s 52 of the ENULA also supports the admission of P5.

²² The 'best evidence' rule and other common law principles of proof have been abolished by s 51 of the ENULA.

²³ That is despite that neither of 2 letters constituting crucial documentation included any advice to the addressee that they had a right of appeal under s 51 of the *Firearms Act*, which they should have.

²⁴ Noting that a Defendant bears an onus of proof to the standard of balance of probability, but that satisfaction or otherwise would be determined having regard to the evidence of the parties as a whole.

²⁵ *Campbell v Arnold* (1982) 13 NTR 7 and *Talbot v Malogorski* [2014] NTSC 54.

²⁶ The *Fisheries Act 1988* (NT) and the Barramundi Management Fishery Plan 1988.

²⁷ Sections 29(1) (a), (b) and (d) of the Code.

27. The fourth issue, concerning carrying a firearm in the LLCR without a permit contrary to TPWC By-law 14, has parallels with the third. That includes due to s 122 of the TPWCA, which provides;

122 Traditional use of land and water by Aboriginals

- (1) *Nothing in or under this Act limits the right of Aboriginals who have traditionally used an area of land or water from continuing to use that area in accordance with Aboriginal tradition for hunting, food gathering (otherwise than for the purpose of sale) and for ceremonial and religious purposes.*
- (2) *The operation and effect of this Act is subject to the Native Title Act 1993 of the Commonwealth.*

28. The By-laws are made under the TPWCA and by definition are part of the Act, such that the By-laws are subject to the operation and effect of s 122, which preserves use of a Reserve in accordance with Aboriginal tradition.²⁸ The prosecution evidence at hearing was that; *'If you're a traditional owner of [a Reserve] then you don't need to have a permit'*, which appears consistent with s 122 of the TPWCA.²⁹ Despite that a material difference may exist between traditional ownership³⁰ and *"Aboriginal tradition"*, there was no evidence before the court from the prosecution or the Defendant concerning either of those aspects, such that the Defendant might avail himself of the exception provided by s 122. I am therefore satisfied to the necessary standard that the Defendant contravened By-law 14.
29. The fifth issue for determination relates to count ten, being an alleged failure by the Defendant to provide his name and address when requested to do so by a member of the police force in contravention of s 95(a) of the *Firearms Act*. With one important difference, s 95(a) is of similar effect to s 134 of the *Police Administration Act 1978 (NT)*.³¹ Section 95 empowers an officer to require a person to provide their *"name and address"*, with the proscription of paragraph (a) giving rise to criminal liability being that the person must not *"refuse or fail to comply with the requirement"*.³²
30. It is noted that *"and"* may sometimes be given disjunctive effect, but that the starting point will be its usual meaning as a coordinating conjunction.³³ Section 95(a) also refers to *"the requirement"*, which is consistent with a conjunctive interpretation by the noun identifying a composite.³⁴

²⁸ Section 17 of the *Interpretation Act 1978 (NT)* provides *"this Act includes a statutory instrument under the Act in which the expression occurs"*, with the definitions of *"statutory instrument"*, *"instrument of a legislative or administrative character"* and *"subordinate legislation"* also relating.

²⁹ Permit officer McLennan on 6 March 2023.

³⁰ See s 3 of the *Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)* and *"common law holder"* in s 56 and s 253 of the *Native Title Act 1993 (Cth)*.

³¹ The difference being that s 134 empowers a request for name or address, or both if the member sees fit.

³² Further potential criminal liability is separately established through s 95(b) and (c) for giving a false name or giving an incomplete or partial address.

³³ *Minister for Immigration and Border Protection v CQW17* [2018] FCAFC 110 and *Statutory Interpretation in Australia 9th Edition*, D Pearce at 2.48 to 2.49.

³⁴ The penal nature of the provision militates against interpolating the word "either" and the effect of the conjunctive interpretation cannot be altered by s 24 of the *Interpretation Act 1978 (NT)*.

31. Sgt Lunney certainly asked the Defendant for his name and, at the least, also his “*details*”. Body worn footage may have allayed any doubt held concerning whether a specific request for the Defendant’s address was made.³⁵ Clearly a person may be validly charged and convicted under s 95 for failure to provide either their name or address, because not providing both on request would constitute a failure to comply with “*the requirement*”. However, I consider a person cannot be guilty of the charge unless and until they have been asked for each of their name and address.³⁶
 32. I am not satisfied beyond reasonable doubt that an essential element to count ten has been proven.
 33. In relation to the sixth issue, possible defences to counts one and two have been dealt with at paragraphs [24] to [26] and [28] above. No defence to those counts is made out.
 34. The Defendant is guilty of counts 1 and 2, and not guilty of count 10.
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³⁵ Which likely existed, but which was not tendered into evidence.

³⁶ The High Court’s decision in *Hammond v Lavender* (1976) 50 ALJR 728 is an example of application of strict compliance with legislated prescription concerning requests.