



Rebecca Gilham
PO Box 1008
St Ives NSW 2075

pdmackie@jeffgilham.com.au

18 July 2011

An Open Letter Regarding Your Appointment

Dear Mr Babb,

The Jeff NEEDS Justice Group would like to congratulate you on your appointment as NSW Director of Public Prosecutions.

We recognise the fact that you have taken the unusual step of remaining as senior counsel for the Crown in Jeff Gilham's appeal to the NSW Court of Criminal Appeal.

Given the unique role that you play in the case and the fact that you have all the material relevant to Mr Gilham's appeal, we formally call on you to take a "model litigant" approach to the proceedings. While this is a concept that has been instituted by the Attorneys-General in respect of the government civil litigation, it is nonetheless relevant to and informative of the Prosecution Guidelines of the NSW Director of Public Prosecutions that are published on your office's website.

Specifically, we seek your express undertaking that you and your office will not:

- Rely on so-called "legal technical" arguments to prevent fresh evidence being presented before the Court. We note your advice to the Court at the mention of Mr Gilham's appeal on 30 June 2011 that your office was having trouble finding an expert on carbon monoxide and yet you also suggested that Mr Gilham's defence team should have been able to obtain such evidence prior to trial.
- Resort to court room tactics to delay the Court as occurred at the last mention. At the last mention you suggested that your office had not been provided with all material. In fact the manager of your instructing solicitor who was present with you in Court that day had been served with all evidence in May and your office had issued a hand-written receipt of collection for the material. Additionally, all expert reports had been provided to your office last year. Neither you nor your solicitor gave any reason to the Court or Mr Gilham's legal team for why you suggested this and why your instructing solicitor did not inform you that he had indeed been served.

(/ctd.)

We also call on you, as Director of Public Prosecutions to

- Make proper disclosures in accordance with item 18 of the Prosecution Guidelines of the NSW Director of Public Prosecutions, by providing full disclosure of all evidence that is relevant to the case. In this case there appear to be expert witness reports that had been obtained by police and other investigators but not disclosed to Mr Gilham's defence team. We understand that Mr Gilham's solicitor has already been in contact with you, or will be shortly, about this matter.
- Support any application for bail Mr Gilham might seek to make pending the appeal given the strength of the material indicating Mr Gilham's innocence and the highly questionable evidence and approaches made in his second trial.

Yours faithfully,



On behalf of the Jeff NEEDS Justice team

Rebecca Gilham

Vanessa Le Clerc

Sonya Nolan

Paul Mackie

Aaron Le Clerc

Paula Mackie

Christine Moger