



ACT Office of the Director of Public Prosecutions

MEDIA RELEASE

RE: DPP v Lehrmann SCC 264 o021

2 DECEMBER 2022

1. I have a prepared statement in relation to the matter of *The Director of Public Prosecutions v Lehrmann* SCC 264 of 2021.
2. I will read the statement and will not be taking questions.
3. The principle considerations in whether or not to continue a prosecution are outlined at Section 2 of the ACT Prosecutions Policy.
4. Section 2.1 of the policy states – quote:
“The decision to prosecute should not be made lightly nor automatically but only after due consideration.”
5. Broadly there are two considerations as outlined at section 2.4, which states – quote:
“The decision to prosecute can be understood as a two-stage process. First, does the evidence offer reasonable prospects of conviction? If so, is it in the public interest to proceed with a prosecution?”
6. A non-exhaustive list of considerations for the reasonable prospect of conviction test is found at section 2.7 of the Prosecution Policy, and for the public interest test at section 2.9 of the Prosecution Policy.

7. I closely considered the reasonable prospect of conviction test when I first examined the brief of evidence in the week of 21 June 2021, and I formed the clear view that there was a reasonable prospect of conviction. This is a view I still hold today.
8. The non-exhaustive list of public interest tests includes section 2.9(p) being the actual or potential harm occasioned to any person as a result of the alleged offence, which in this context includes actual or potential harm occasioned by the ongoing prosecution of the alleged offence.
9. In short, I need to consider the harm that could be occasioned to a party, particularly a complainant, from an ongoing prosecution.
10. I have recently received compelling evidence from two independent medical experts, that the ongoing trauma associated with this prosecution presents a significant and unacceptable risk to the life of the complainant. The evidence makes clear that this is not limited to the harm of giving evidence in the witness box, rather applies whether or not the complainant is required to re-enter the witness box in the re-trial.
11. Whilst the pursuit of justice is essential for my office and the community, the safety of a complainant in a sexual assault matter, must be paramount.
12. In light of the compelling independent medical opinions, and balancing all factors, I have made the difficult decision, that it is no longer in the public interest to pursue a prosecution at the risk of the complainant's life.
13. This has left me no other options but to file a notice declining to proceed with the retrial of this matter, which I have done.
14. This brings this prosecution to an end.
15. Before concluding, during the investigation and trial, as a sexual assault complainant, Miss Higgins has faced a level of personal attack that I have not seen in over 20 years of doing this work. She has done so with bravery, grace and dignity, and it is my hope that this will now stop, and Miss Higgins now be allowed to heal.

End media release