

Drunk man 'could not have intended to kill or harm' woman

BRISBANE: A man who admitted killing a young Queensland woman was guilty of manslaughter, not murder, the Brisbane trial of Bevan Errol Meninga was told yesterday.

Meninga accepted responsibility for the death and was guilty of killing her, his defence lawyer, Milton Griffin, said yesterday in his opening address in the Queensland Supreme Court.

But he said 20-year-old Meninga had been grossly intoxicated at the time and could not have intended to kill or grievously harm her, meaning he was guilty of only manslaughter.

Meninga, who has pleaded not guilty to murdering Cheree Richardson, 19, in May last year, later testified, saying he had drunk up to 40 alcoholic drinks and smoked marijuana before going to a Sunshine Coast park with another person.

Miss Richardson's body was found in the park. She had been beaten about the face with a tree branch.

Meninga told the court he remembered being in the park at the time of the killing with "someone", but did not know who.

"I remember holding a branch and swinging it," he said.

"I don't remember inflicting any violence with the branch on anyone."

"I think I was feeling angry and a bit of hatred, you know."

Meninga said nothing had happened during that night to make him "direct those feelings" towards Miss Richardson.

He said he had realised something bad had happened when he

awoke the next day at his home to find specks of blood on his hands.

Meninga said he had drunk up to 20 alcoholic drinks — both beer and bourbon and coke — at each of two nightclubs he had visited before Miss Richardson's death.

He also had drunk about six stubbies of beer before leaving for the nightclubs, twice smoked marijuana and had drunk several other

alcoholic drinks at two other nightclubs during the outing.

Under cross-examination Meninga admitted he had falsely told police another Sunshine Coast man was the killer.

He denied a suggestion that he had not been intoxicated at the time of the killing but had a "great recall" of what had happened that night.

The trial continues.

Accused complains of gun threat, prosecution denies coercion

Confession was 'forced'

By GILLIAN FIELD

An allegation that police forced a confession from a man by threatening him with a pistol was too outrageous to be a lie, defence lawyer Terry O'Donnell told the Supreme Court yesterday.

Prosecutor John Ibbotson said the suggestion was ludicrous and came from a man clutching at straws.

Both were summing up in the trial of John Martin Cumberland, 24, who is facing 11 charges before Justice John Gallop. He has been charged with four counts of burglary, five of theft, one count of using a false instrument (forging a cheque), and one of robbery.

He pleaded guilty to three charges — burglary, theft, and signing a false name on a cheque.

Cumberland had alleged that Detective Constable Michael Pearce forced him to make a video

confession by threatening him with a gun and beating him. He said his shoulder was dislocated when he was pulled out from under a bed on March 4.

On Monday Cumberland told the court that he had been handcuffed. He was scared because the policemen had reached for their guns while searching a flat, in front of his terrified mother.

He said that a gun had been produced later at the police station, and again in front of others while he had been on the phone to Magistrate Peter Dingwall.

He said Constable Pearce had pointed the gun at his head while parked in an unmarked police car in O'Connor. He said condensation on the windows stopped people walking past from seeing, and windows had been wound down so he could see houses he was told he had burgled.

The accused's mother, Valerie Cumberland, told the court that

Constable Pearce was in charge of the search warrant, not Detective Constable Gregory Ransie. She said she could not see a gun.

When her son had been pulled out from under the bed, Constable Pearce had held his arm behind his back. She had asked Constable Pearce to stop because she knew that her son was injured from the night before and had a sore back, shoulder and ribs. The police did not handcuff him.

Yesterday, Terry O'Donnell said, "there have been times in this trial where there has been overt scepticism" shown about Cumberland's evidence. He said guilt or innocence should not be determined by laughs or theatrics.

He said it was the very outrageousness of Cumberland's story which made it believable.

Making a judgment based on Cumberland's criminal record would be improper, he said.

"If the accused was threatened

by police, if the matters were canvassed in advance, and if police were incompetent and bullies, nothing in the record of interview was inconsistent to that."

It was necessary to remember Cumberland was being railroaded to understand why his evidence might not be very impressive. Saying "exactly what is here is what I was told to say" when asked about the inconsistencies in the video, might be an over-simplification of the truth. But that did not mean it was wrong.

"There were eyebrows raised when I put the questions about the behaviour of the police," Mr O'Donnell said, "but it is notorious that the police have misbehaved in the past."

Mr Ibbotson said Cumberland's claim of force and assault did not make sense.

When arrested, Cumberland was an addict and asked several times if he could go to the Belcon-

nen Remand Centre, because that was "the only place where he knew he could get some assistance with drugs."

There was no evidence from doctors of any injuries except a sore shoulder, which could have happened the night before Cumberland was arrested.

The video did not show a terrified man, but one on drugs who was "spilling his guts to police". It also showed him giving details to the police that he did not know about and could not have told him.

The idea that Constable Pearce would have held a gun to his head in the middle of the police station when anyone could have walked in, was "ludicrous."

"I suggest the Crown has not just proved it beyond reasonable doubt, but beyond all shadow of a doubt," Mr Ibbotson said.

The trial continues today with Justice Gallop's summing up.

Man jailed for indecent acts with boy, 4

By MICHAEL BACHELARD

A man who pleaded guilty to two acts of indecency with a four-year-old boy was sentenced in the ACT Supreme Court yesterday to two years' imprisonment.

Chief Justice Jeffrey Miles said he had decided to impose a jail sentence despite the fact that rehabilitation would be the best treatment for the man's alcoholism and emotional instability.

Justice Miles said rehabilitation was only one facet of the court's duty to society, and that protection of victims was another.

Although prison was a last resort, he felt it was justified in this case.

The man, who is 28, had pleaded guilty to one act of indecency with the boy, and one act in the presence of the boy.

Both had taken place when he had been baby-sitting the children of a woman with whom he shared a house. He said he had been "pretty pissed" at the time of the incident, and had also been affected by cannabis.

Justice Miles said society frowned more on interference with children by people in positions of trust. He said the offence seemed to be a spur of the moment action, as the man had no previous record for such offences.

Justice Miles said the man was unlikely to offend again. He said that despite suggestions from the child's mother that there was more to the story than the court had heard, he could only rule on the evidence presented.

The man was sentenced to two years' imprisonment with a non-parole period of one year. He hoped he could be placed in a program for sex offenders and be given alcohol counselling in prison.

Legal address suppressed in 'Family' case

SYDNEY: The Crown's opening address in the controversial custody case involving 65 children from religious sect The Family has been suppressed.

Cobham Children's Court Magistrate Ian Forsyth ordered an interim suppression of the address yesterday, at the request of a solicitor for the children's parents, Chris Murphy.

Mr Murphy said remarks by counsel for the Department of Community Services, Robin Tupman, had been "scurrilous" and a condemnation of the families and children.

The NSW Supreme Court will hear an application seeking permanent suppression of the address today.

The custody battle began in May when welfare workers seized the children during dawn raids on the sect's communal homes in Sydney, after former group members alleged the children were being sexually abused and brainwashed.

After hearings at Cobham Children's Court, Magistrate Forsyth ordered on May 28 that while evidence of the children's welfare was being gathered they should be returned to their homes.

The Department of Community Services alleged there was evidence of sexual activity between adolescents and adults and said it should be allowed to keep the children from their parents.

Lawyers for the parents argued that the children had given no indication to police or welfare workers that they were being abused. They had wanted only to be reunited with their families.

WA criminals to have chance to make amends

PERTH: A new court scheme which will give petty criminals a chance to make amends to their victims will be tested in Western Australia.

The state Attorney-General, Joe Berinson, said yesterday that the scheme was based on European programs and was believed to be the first for

adult criminals in Australia.

Similar schemes for juvenile offenders were already operating in WA and in Wagga, southern NSW, and the scheme was being tested in Beenleigh outside Brisbane.

Mr Berinson said that under the plan, a special Victim-Offender Mediation Unit would

be set up to provide a new option for the courts.

Victims and offenders would meet — if both agreed — so that the offender could make amends by apologising, repairing damage, doing community work or through a cash compensation.

The meeting would take place

after conviction and before sentencing.

"The victims will see that their feelings have been recognised and it will give offenders an insight into the effect of their crime on the victims, while encouraging them to take responsibility for their actions," Mr Berinson said.

Man changes plea to guilty of restaurant armed robbery

By MICHAEL BACHELARD

A man accused of the armed robbery of a Chinese restaurant in May changed his plea of not guilty to guilty after the evidence of the first witness in the hearing against him in the ACT Magistrates Court yesterday.

Simon Jeffrey Taylor, 18, was charged with two counts of armed robbery and one of driving a motor vehicle knowing it was stolen.

The charges related to the armed robbery of the New Shanghai restaurant in Dickson on May 2.

Taylor's co-accused, Rickey William Harvey, 18, maintained his plea of not guilty.

The first witness, restaurant manager Wai Ling Wong, said she had been closing up the restaurant just after midnight on Saturday, May 2, when two men had come in, and she had thought they wanted take away food.

Ms Wong said she had been standing at the till putting the night's takings into her bag. She had not counted the money, but thought there was about \$2000. She had also just paid a waiter, Chikit Ho, \$100.

The men had walked over to her and she had told them the restaurant was

closed. Taylor had produced a gun and said, "Give me the money."

She said she did not know if the gun was real, but thought she "just had to trust" that it was. Taylor had been wearing a track suit with the hood pulled over his head. She said it had been dark and she had difficulty seeing the second man.

The second man, alleged to be Harvey, had told Ho to hand over his money, and he had.

Ms Wong identified a replica automatic pistol in court as being the one used in the robbery.

After Ms Wong had given her evidence, Taylor changed his plea to guilty on all three counts. He was committed for sentence in the Supreme Court on a date to be fixed.

Mr Ho told the court that the second man had taken the \$100 he had just been paid. He said it had been quite dark in the restaurant, and he could not remember what the man looked like.

A 17-year-old boy alleged to have been in the car used in the robbery gave evidence that he had been in Civic with Taylor and Harvey when the robbery was planned. He had drunk a 750ml bottle of bourbon that night.

He said he had gone with them to the restaurant and stayed in the car downstairs when they went into the building.

He said he had been "quite delirious" from the alcohol he had drunk, but thought the two had returned at a run about five minutes later. He had driven the car back to some flats on Northbourne Avenue, where they had parked it. They had then run into Civic.

He had met Harvey for the first time that night. He had described him as having tanned skin, and identified him in court yesterday.

Defence counsel Craig Everson, asked the witness if he thought Harvey's skin looked tanned yesterday, and he agreed that it looked fair.

Another witness identified Harvey in the courtroom. He said he was the owner of the replica gun used in the robbery. He had lent it to Harvey at 10.30pm that night when Harvey had said he planned to commit an armed robbery.

He said Harvey had returned it to him at about 12.30am on Saturday and told him that they had just done an armed robbery. He said he had been very surprised, because he thought he had only been joking.

The hearing continues today.

DRINK-DRIVING

Fifteen people were dealt with in the ACT Magistrates yesterday for drink-driving offences.

Before Magistrate Michael Somen

Shane Michael Toohy, 20, of Luther Place, MacGregor, pleaded guilty to an offence on March 28, 1992, in Sirexion Drive; Breathalyzer 0.160, fined \$300, licence suspended for 12 months.

Rodney Ian Hewitt, 32, of Jenner Court, Wannassa, pleaded guilty to an offence on March 29, in Erindale Drive; Breathalyzer 0.10, fined \$500, licence cancelled and disqualified from holding a licence.

Kenneth Ross, 23, of Miller Street, O'Connor, pleaded guilty to an offence on May 7, 1992, in Bary Drive; Breathalyzer 0.050, fined \$350, licence suspended for four months.

Timothy Keith Fitz, 24, of McCaughey Street, Turner, pleaded guilty to an offence on April 19, 1992, in Coppins Crossing Road; fined \$450, licence suspended for three months.

Anthony Graham Wilson, 19, of Cadell Street, Downer, pleaded guilty to an offence on April 17, 1992, in Chalis Street; Breathalyzer 0.07, fined \$350, licence suspended for six months.

Kruno Frank Babic, 28, of Simpson Street, Watson, pleaded guilty to an offence on May 21, 1992, in Ellenborough Street; Breathalyzer 0.240, fined \$500, licence suspended for nine months.

David Andrew Faiza, 23, of Millhouse Crescent, Higgins, pleaded guilty to an offence on December 1, 1992, in Coranderrk Street; Breathalyzer 0.07, fined \$500.

Richard Graham Sturgess, 25, of Crest Road, Queanbeyan, pleaded guilty to an offence on April 2, 1992, in Commonwealth Avenue; Breathalyzer 0.100, fined \$480, licence suspended for four months.

Edward Bruce Sumerville, 32, of an unknown street via Queanbeyan, pleaded guilty to an offence on May 17, 1992, in Parkes Way; Breathalyzer 0.230, fined \$1200, licence disqualified.

Eden James Kane, 23, of Condamine Court, Turner, pleaded guilty to an offence on May 24, 1992, in Yarra Glen Drive; Breathalyzer 0.10, fined \$450, licence suspended for six months.

Alistair Wilson, 19, of Shackleton Circuit, Mawson, pleaded guilty to an offence on May 17, 1992, in Commonwealth Avenue; Breathalyzer 0.100, fined \$400, licence suspended for six months.

Anthony Michael Wormald, 24, of Cheeseman Place, Gornie, pleaded guilty to an offence on March 17, 1992, in Kent Street; Breathalyzer 0.120, fined \$400, disqualified from holding a licence for three months.

Peter John Gamble, 27, of Downward Place, Kambah, pleaded guilty to an offence on April 9, 1992, in Wilkins Street; Breathalyzer 0.150, fined \$500, disqualified from holding a licence for 12 months.

Shayne Timothy Collins, 27, of Hobbs Street, O'Connor, pleaded guilty to an offence on February 28, 1992, in Hyndes Crescent; Breathalyzer 0.090 to 0.100, fined \$300, licence suspended for three months.

Lyndall Mary Martin, 41, pleaded guilty to an offence on April 5, 1992, in Commonwealth Avenue; Breathalyzer 0.150, offence proved but no conviction entered, \$1000, 12 month good-behaviour bond.

Guide to legal rights

SYDNEY: An information kit to help non-English speaking people understand their legal rights was launched in Sydney yesterday as part of Law Week.

The Legal Resources and Referral Manual was launched by the Ethnic Communities' Council yesterday.

It was essential that non-English speakers had an understanding of their legal rights and responsibilities, Law Society president John Marsden said.

"Many of the cultures represented in Australian society have been in the dark about their legal rights for too long," he said in a statement.

LAW LIST FOR TODAY

FAMILY COURT
 Before Justice Finn, in Court 1, at 10am: Hadfield.
 Before Justice Coleman, in Court 2, at 10am: Belchambers.
 Before Registrar Davis, in Court 3, at 10am: Maiuto, Bradley, Millikin, Mikola, Warner, Vesely, Heriot, Waldron, Stockman, Kennedy, Foley, McNicol, Wheatley, Bolton.

ACT SUPREME COURT
 Before Chief Justice Miles, in Court 1, ACT Law Courts, at 9.30am: Trial: R v G A (part-heard).
 Before Justice Gallop, in Court 2, at 10am: Trial: R v Cumberland (part-heard).
 Before Justice Higgins, in Court 6, at 10am: Hearing: Anna Civitan v Commonwealth of Australia.

NOTICE TO JURORS
 Jurors serving in the trial of R v G A are required today at 9.20am, Jurors serving in the

trial of R v Cumberland are required today at 9.50am.

ACT ADMINISTRATIVE APPEALS TRIBUNAL
 Before Senior Member Beddoe, in Hearing Room 2, 4th Floor, AMP Building, Hobart Place, Canberra: Directions Hearing: At 9am: Canberra International Clay Target Club and Department of Environment, Land and Planning.
 At 9.40am: ACT Institute of TAFE Student Association and Commissioner for ACT Revenue.
 At 10am: Contis and Commissioner for ACT Revenue. Telephone Directions Hearing: At 9.15am: Cyner Pty Limited and Commissioner for ACT Revenue.
 Before Senior Member Beddoe, Mr Atwood, Member, Mr P. Corkery, Member, in Hearing Room 1, 4th Floor, Hearing: At 10.15am: Proudfoot and Department of Health (ACT).

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