

Man 'confessed' to armed holdup

By MICHAEL BACHELARD

A man who has pleaded not guilty to committing an armed robbery in May had confessed the crime to a policeman on the day of the incident, the ACT Magistrates Court heard yesterday.

Constable Pat Gallagher said he had been on duty at the front desk of the City Police Station at 5.45pm on Saturday May 2 when the defendant, Ricky Harvey, 18, came into the station with a group of people.

A woman in the group, Kay Mundine, had told Gallagher that Harvey wanted to confess to a crime. When Gallagher had asked Harvey what it was about, Harvey had said he wanted to turn himself in. He said he had been involved in "the armed robbery that happened at Dickson last night".

On Tuesday the court heard that two workers at the New Shanghai restaurant in Dickson had been robbed of more than \$1600 in the early hours of May 2.

Mundine, a consultant on Aboriginal Youth issues, said Harvey had told her he had been involved in a hold-up the previous night.

He had been quite hyperactive,

she said, so she had taken him for a drive. They had stopped in Dickson for petrol, and Harvey had become agitated. He had said he would show Mundine the restaurant he had been into the previous night.

She told the court that Harvey "tells a lot of stories", and she had wanted to get him to the police station to find the truth.

Under cross-examination she agreed that Harvey sometimes went into absolute flights of fancy "when it's to his advantage".

She knew that Harvey had previously admitted to police to being involved in the assassinations of a former Australian Federal Police Assistant Commissioner Colin Winchester, and a former Prime Minister, Harold Holt.

A friend of Harvey's, Shane Sellen, 17, gave evidence that he had seen Harvey at Capital Funland in Civic on May 1, when the robbery was planned. He said Harvey had been talking to another 17-year-old boy about doing an armed robbery.

Harvey and the boy, who gave evidence on Tuesday, were arranging to borrow the boy's replica gun.

Cross-examined by defence counsel Craig Everson, Sellen agreed that he had not known Harvey's surname when he had been

interviewed by police, even though he used his surname in court yesterday. He had also talked to other witnesses outside the court about what was happening in the court.

He agreed that some of his evidence relied on what other people had told him after the event.

He had drunk "about six" bourbon and cokes at the Firehouse nightclub that evening.

Detective Constable Therese Burnicoat gave evidence that she had spoken to Harvey in the Belconnen Remand Centre on July 7. The transcript of the interview was tendered yesterday despite Mr Everson's objections. In it Harvey admitted to being at the scene on the night of the robbery, but said he had stayed in the car while Simon Taylor, 18, his co-accused, and another boy had gone in.

Harvey said in evidence yesterday that the statement was all lies, and that he had made it because Taylor and others had beaten him up in the Remand Centre and warned him that if he said anything he would be "smashed again".

The hearing continues tomorrow.

Banned HIV footballer jailed for heroin trafficking

MELBOURNE: A Tasmanian footballer banned from a country league because he is HIV-positive was sentenced to six months' jail on charges of heroin trafficking and burglary in Melbourne yesterday.

Steven Roach, 32, pleaded guilty to 15 charges, including several counts of deception for forging signatures on stolen cheques.

Roach came to national prominence earlier this month when Tasmania's North East Football Union banned him from playing after he revealed he was HIV-positive.

Wanted in Victoria for breaching

parole on a previous burglary conviction and for jumping bail on drug charges, Roach was arrested in Melbourne on July 20, after police saw him being interviewed on Channel Nine's *Midday Show*.

His lawyer, Robert Thyssen, told Magistrate Albert Johnson, in Heidelberg Magistrates Court yesterday, that Roach had fled Melbourne last year to escape the drug scene, which was fuelling his heroin addiction.

Roach had been arrested on a St Kilda street corner on March 9 last year, carrying 0.5 grams of low-purity heroin.

Mr Thyssen said it was the first time Roach, an addict at the time, had tried to sell drugs.

"There's no dispute he was addicted, [but] he was not going out in the marketplace as an entrepreneur."

Both Roach and his de facto wife were users, Mr Thyssen said.

Acknowledging Roach's "significant history of convictions", he said the footballer's drug problems had begun after a conviction in 1987 on "serious charges". The conviction was later quashed on appeal.

"He lost his [previous] marriage and possessions — he had a chip on

his shoulder," Mr Thyssen said, but argued that Roach had gone a long way towards rehabilitating himself in Winnaleah, Tasmania, by giving up drugs and playing football.

His risky return to Melbourne to be interviewed on the Ray Martin show had been prompted by a desire to highlight HIV issues.

"A factor was that he was approached by an 11-year-old who had AIDS. He felt he had to come," Mr Thyssen said. "There was no benefit as such. Channel Nine paid his air fares and hire car — that's all."

Mr Johnson sentenced Roach to six months' jail for the heroin charges and a concurrent six months for robbing his de facto wife's former home in June last year and stealing \$2470 of property and a chequebook.

The police prosecutor, Senior Constable Jeff Travers, listed several occasions on which Roach had obtained money by stealing chequebooks and forging signatures.

Roach received a concurrent one-month sentence for breaching bail and faces up to another two years for breaching parole.

Killing details 'forgotten'

BRISBANE: A man told a court yesterday he could not remember details of a killing he had admitted committing.

Bevan Errol Meninga, 20, of the Sunshine Coast, was continuing evidence he began on Monday at his Supreme Court trial in Brisbane.

Meninga's defence lawyer has told the court his client killed 19-year-old Cheryl Richardson on the Sunshine Coast in May last year.

He has submitted Meninga is not guilty of murder but of the lesser charge of manslaughter, due to a "gross abnormality of mind" at the time of the killing.

Meninga has pleaded not guilty to murder.

Meninga told the court yesterday that his memory of events connected with the killing "started to get patchy"

when he was at a Sunshine Coast nightclub with Miss Richardson shortly before her death.

Meninga has testified that he drank between 40 and 50 alcoholic drinks and smoked marijuana during the night at a private barbecue and at four nightclubs.

Under cross-examination, Meninga denied suggestions from prosecutor Vishal Lakshman that he could remember killing Miss Richardson.

The court has heard Miss Richardson was fatally bashed with a tree branch in parkland after she left Club Elite with Meninga, who had been an acquaintance for about two years.

Meninga said that before he was charged with murder he falsely told police in an interview that he was drunk, but knew what he was doing on the night. The trial continues.

'Forced confession' man guilty of theft, burglary

By GILLIAN FIELD

A man who said police had forced him to confess to theft and burglary charges by holding a pistol at his head was found guilty of eight of those charges in the ACT Supreme Court yesterday.

John Martin Cumberland, 24, faced 11 charges before Justice John Gallop: four counts of burglary, five of theft, one of forging a cheque and one of robbery. He had pleaded guilty to one count each of theft, forgery and burglary.

Cumberland had told the court during the trial that a videotaped confession had been forced out of him by police, who had held a gun at his head three times, bashed him, and threatened to "waste" him.

In summing up, Justice Gallop said there were "very substantial credibility issues" in the case, which meant the jury must look very carefully not only at what witnesses had said, but their demeanour while saying it.

He said that finding Cumberland not guilty was not the same as finding him innocent, but meant that

the case could not be proved beyond reasonable doubt.

The case must be decided on what happened in court, not, for example, on what might be said in the community about the increase in burglaries, which may lead jurors to look at the case with prejudice.

It would be just as wrong, he said, to view the police with prejudice, just because police "have been known to misbehave".

He reminded the jury of the "doctrine of recent possession", which enabled it, in the absence of reasonable explanation, to find someone guilty of theft if they had been found with stolen property soon after it had been taken. Cumberland had cashed a cheque within an hour of the handbag it had been in being stolen.

For some of the charges, the Crown case rested solely on the videotaped confession. Justice Gallop advised the jury to take careful note of Cumberland's demeanour, to see if he had been behaving like someone who was terrified.

On the subject of police brutality, Justice Gallop pointed out that no-

one had recorded seeing any of Cumberland's alleged injuries. He also said that Cumberland had not taken the opportunity which the videotape presented to complain about his treatment, nor had he blurred his accusations out to Magistrate Peter Dingwall, when he spoke to Mr Dingwall on the phone so that police could get permission for an extension of interview time.

Justice Gallop explained that in most cases, the criminal record of the accused was not admitted as evidence. But there were exceptions, one of which had applied in this case. The defence had made an imputation about the character of a witness, which therefore put Cumberland's character in issue.

When considering the alibi, produced at the beginning of the trial, he said "somebody is telling fibs". The jury had to believe that either Cumberland was lying, or one of the other witnesses had been lying. It was a classic jury question, he said, to decide who was the more credible.

Cumberland will be sentenced on September 3.

War-crimes charge dismissed, tears from pensioner

ADELAIDE: A 78-year-old Adelaide pensioner wept yesterday as a magistrate dismissed a charge against him of being involved in the murder of 102 Jews in Nazi-occupied Ukraine in 1942.

After a five-week committal hearing, Magistrate David Gurry found Nikolay Berezowsky had no case to answer on a charge of being involved in the killings in the Ukrainian village of Gnivan during World War II.

Berezowsky, sitting in the front row of the public gallery in the Adelaide Magistrates Court, wept when Mr Gurry said there was insufficient evidence to send him to trial.

He stood with the aid of a walking stick and shook hands with each member of his defence team. Asked if he was relieved, Berezowsky said, "Oh yeah ... yes all right."

The ruling ended Australia's second European war crimes committal hearing.

However, prosecutors still have the option of rejecting the magistrate's finding and pursuing the case against Mr Berezowsky in the Supreme Court.

Berezowsky was charged on September 5, 1991, by officers from the Special Investigations Unit, a multi-million-dollar operation set up in 1987 by the Federal Government to investigate claims that alleged war criminals had fled to Australia after World War II.

The prosecution alleged Berezowsky was the head of a local police unit in Gnivan, recruited

by Nazi soldiers to keep order in the village after it was occupied in 1941.

They alleged that between March and July, 1942, he took part in the round-up of Jews in Gnivan, who were later executed and buried in a mass grave outside the village.

Evidence was given at the hearing by 16 Ukrainian witnesses who travelled to Australia and by two British historians who gave testimony about documents found in European archives.

But in closing submissions yesterday, senior defence lawyer Michael David, QC, said 90 per cent of the evidence given was "a farago of inconsistencies and lies".

He said that for the purposes of the hearing, the prosecution had proved that Berezowsky was a member of the Gnivan police, known as the Schutzmannschaft, and had "generally" collaborated with the Germans and escaped with them as they retreated from Gnivan.

But there was no evidence to suggest he had been involved in the round-up and killing of Jews.

However, the federal Director of Public Prosecutions, Michael Rozenes, QC, has the power to re-file charges dismissed by a magistrate, sending them straight to the Supreme Court.

This occurred after the committal hearing by Ivan Polyukhovich, the first Australian charged with European war crimes.

Man claims police assault

SYDNEY: Convicted murderer Bruce Roberts told the Supreme Court yesterday he had been charged with assaulting a policeman after the policeman had assaulted him.

He said that was why he had not attended a court hearing in June, 1983, to face the charge.

Roberts' absence led to revocation of the licence on which he had been released from jail.

A Supreme Court judge began hearing a challenge by Roberts yesterday to the revocation of his parole.

Roberts, who has changed his name to Jason Bruce Garrett, claims the revocation in July, 1983, was invalid.

He says he was denied natural justice in not being given a chance to be heard before the action was taken. He also alleges proper legal procedures were not followed.

Roberts was 15 when he fatally shot his father in 1975.

Roberts and his mother, Violet, were convicted of a murder that ended years of drunken cruelty towards them.

Roberts, now 34, was sentenced to 15 years' jail and his mother to life imprisonment, sparking a wave of public protest.

Taxi-murder retrial

BRISBANE: One of two deaf mutes convicted of murdering a taxi driver almost two years ago has won a retrial.

In a 2-1 decision, Queensland's Court of Appeal found yesterday that Timothy Francis Allen's murder conviction should be quashed and a retrial held.

Allen, 22, formerly of Redbank Plains, was convicted last year along with Michael Robert Bradford, 23, formerly of Bracken Ridge.

They were found guilty of murdering 28-year-old taxi driver Robin Miller in August, 1990, by slashing his throat after he picked them up in his cab.

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 9.30am: Janovitch.
Before Deputy Registrar Morrissey, in Court 3, at 2.15pm: Sperling.
ACT SUPREME COURT
Before Chief Justice Miles, in Court 1 ACT Law Courts, at 10am: Sentence: R v Morrow; R v Eardley.
Before Justice Higgins, in Court 2, 9.30am: Swearing in of Justices of the Peace. At 10am: Hearing: *Civilian v Commonwealth of Australia* (part-heard). Directions: Commonwealth of Australia v Silvestro Limited; Commonwealth Bank of Australia v Silvestro Limited.
ACT ADMINISTRATIVE APPEALS TRIBUNAL
Before Senior Member Beddoe, in Hearing Room 2, 4th Floor, AMP Building, Hobart Place, Canberra. Directions Hearing: 8.45am: *Tallard and Registrar of Weapons*. At 9am: *Ledson and Registrar of Weapons*. At 9.45am: *McMahon and Registrar of Weapons*. At 10am: *Fleming and Minister for the Environment, Land and Planning*. At 10am: *Smith and Minister for the Environment, Land and Planning*. At 11.30am: *Flanagan and Minister for the Environment, Land and Planning*. At 9.15am: *Smith and O'Sullivan and Commissioner for Housing*. Apps for Extension of Time: hearing: AT 10am: *Allen and Minister for the Environment, Land and Planning*.

INDUSTRIAL RELATIONS COMMISSION
Before Commissioner Sheather, in Hearing Room 1, at 11am: *Australian National Gallery and Australian Public Sector Professional and Broadcasting Union, Australian Government Employees and others re reduction in security staff National Gallery*. At 2pm: *Transport Workers Union and ACT Internal Omnibus Network (ACTU) re travelling allowance*. — report. At 2.15pm: Application pursuant to S.112 of the Act for consent award by the ACT Minister for Housing and Community Services and another re shift loading for Belconnen Remand Centre custodial officers.

DRINK-DRIVING

Seven people were dealt with in the ACT Magistrates Court for drink-driving offences yesterday.
Before Magistrate Michael Soames: Kerrie Ann Denham, 27, of Fenwick Street, Rumbalara, pleaded guilty to an offence on April 2, 1992, in Richardson Street, Broadbalyer 0.12, convicted and fined on a \$3000, three-year good behaviour bond, ordered to perform 88 hours of community work, disqualified from holding a licence.
Julie Margaret Campbell, 23, of Bremer Street, Griffith, pleaded guilty to an offence on March 29, 1992, in an unnamed street, Broadbalyer 0.09, fined \$300, licence suspended for three months.
Angela Ryan, 27, of Schlich Street, Yarralumla, pleaded guilty to an offence on May 16, 1992, in Vernon Circle, Broadbalyer 0.13, fined \$300, licence suspended for three months.
Robert Alexander Sawkins, 22, of Camerons Street, Hawker, pleaded guilty to an offence on May 22, 1992, in Parkes Way, Broadbalyer 0.08, fined \$300, licence cancelled and disqualified from holding a licence.
Terrence John Lewis, 46, of Liverpool Street, Manungah, pleaded guilty to an offence on May 20, 1992, in Catchpole Street, Broadbalyer 0.160, fined \$300, licence suspended for six months.
Karl Mitchell Jones, 31, of Radcliff Crescent, Florey, pleaded guilty to an offence on May 22, 1992, in Cohen Street, Broadbalyer 0.16, fined \$700, licence suspended for 12 months.
Darryl John Tough, 19, of Glenwood Street, Evans, pleaded guilty to an offence on May 16, 1992, in William Webb Drive, Broadbalyer 0.13, fined \$400, licence suspended for nine months.

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