

I've got to go to jail, accused tells judge

By MARION FRITH

"You can't have someone like me running around society," a convicted sexual offender, Michael Robert Wyatt, told the ACT Supreme Court yesterday.

He agreed that a judge with "a bit of a heart" who had given him bail previously had made a mistake in doing so.

Wyatt, 40, currently serving time in Goulburn Jail for other offences, was found guilty recently of sexually assaulting a woman in the men's toilet at Haig Park, Braddon, on January 5.

He had been on bail granted by Justice John Kelly, despite opposition by the Crown, the month before.

"Justice Kelly he sort of... well, he had a bit of a heart as a judge," Wyatt, who wept frequently during yesterday's proceedings, said. "He saw something in me."

The court heard how Wyatt was an alcoholic who had been living aimlessly at the time of the offence, drinking heavily, smoking large amounts of marijuana and regularly visiting doctors to get Serenex prescriptions.

"I was mentally sick," he said. "I wouldn't accept I was the problem."

He described his efforts since then to deal with his alcoholism through Alcoholics Anonymous and the limited counselling resources of jail.

"I've exhausted all rehabilitation possibilities within the prison system," he said. "There's 600 prisoners in there. It's another government institution."

However, he said, he received weekly counselling from AA sponsors and the prison chaplain, Sister Anne Player, and "there's all my reading in my cell."

"Transactional analysis, whatever I can get my hands on," he said. "I'm an alcoholic. I've got personality disorders. These people here in the background, and in court, they mightn't see me as

much, but I've got hope for myself and it's that hope that's kept me going."

Evidence was produced of Wyatt's extensive criminal record, which includes two previous lengthy jail sentences for sexual offences, as well as convictions for assaulting women.

Justice Gallop said, "He's a slow learner."

A victim impact statement was read to the court in which the complainant, who had alleged Wyatt had dragged her by the hair into the toilet after an all-night drinking session, said she suffered depression and reclusiveness since the attack, and had moved house twice in an effort to make a fresh start. But she had been unable to get on with caring for her children adequately and one had been sent to live with relatives and the others were frequently minded by family and friends.

The Public Defender, Terry O'Donnell, said that although the offences against her, and other offences, had been committed while Wyatt had been on bail, they had been committed during a period of significant alcohol and drug abuse while he had been living on the fringe of society with others with similar lifestyles.

"Which is not to suggest that women living on the fringe of society don't have a right to say no," he said.

Wyatt said he had come to court expecting another seven or eight years to be added to his present sentence, the non-parole period of which expires on February 20, 1993.

"I'm not after anyone's sympathy with these tears," he said. "You've got to go accumulative [in sentencing] to satisfy the community. I've got to go to jail."

Mr O'Donnell said Wyatt's wish was to do his time and then become a member of society that society no longer had reason to fear.

Justice Gallop deferred passing sentence until tomorrow morning.

War-crimes hearing told 63 girls' skulls in mass grave

ADELAIDE: More than 60 of the 553 skulls identified from a mass grave in the Ukraine were from girls under the age of 10, Australia's first European war-crimes hearing was told yesterday.

Detective Sergeant David Hughes of the NSW police physical evidence section said the skulls had been identified by a joint Australian-Soviet forensic team which had exhumed the mass grave near the village of Serniki last year.

The forensic team had identified 405 of those skeletons as female, with 63 being girls under 10, Sergeant Hughes told the Adelaide Magistrates Court.

Further examination had found 410 had died from bullet wounds to the head, 10 from fractured skulls, while the cause of death of the remaining 133 could not be determined, he said.

Before the court was Adelaide pensioner Ivan Polyukhovich, 75,

who migrated to Australia after World War II.

He is alleged to have murdered 24 Jews and to have been knowingly involved in the murders of between 553 and 850 others in 1942.

Sydney University archaeologist, Emeritus Professor Richard Wright, who had been a member of the exhumation team, told the court the density of bones, fat and soft tissue at the southern end of the grave had

"made it too unpleasant to continue excavation".

Professor Wright said pine trees removed from the top of the grave before the exhumation had been analysed and found to be between 28 and 30 years old.

Two samples of human hair had also been taken for analysis from the grave. "I cut off two plaits from two skulls," Professor Wright said.

Dentures, the hair samples and a rubber boot found in the 40-metre

grave were tendered as evidence yesterday by special prosecutor Greg James, QC.

A pink hair comb, found near a crushed skull, was also tendered.

A total of 72 cartridges, bullets and bullet fragments had been found in the grave, and examination by ballistic experts showed most to be of German origin, with a small number of Soviet origin.

Sergeant Hughes said the Australian forensic team had worked from

the southern end of the grave and the Soviet team from the northern end. Each team had designated roles, with one person being appointed to remove the skulls so they could be examined and recorded before being replaced.

On July 13, 1990, the grave had been filled in and a re-interment ceremony had taken place.

The committal hearing, which will determine if Polyukhovich is to stand trial, continues today.

Australia asks world court to throw out Nauru claim

THE HAGUE: Australia asked the International Court of Justice on Monday to throw out a multi-million-dollar claim by the tiny Pacific republic of Nauru for environmental damage.

Nauru says phosphate mining before independence from Australia devastated the tiny equatorial island and transformed it into a barren wasteland.

"Four fifths of the island now resembles a ghostly moonscape of barren pinnacles. Vegetation has been destroyed, birds are disappearing and the climate is changing. These lands are now completely uninhabitable and of no economic value," Nauru said in a statement.

Nauru, which gained independence in 1968, estimated the cost of rehabilitating the land mined before independence at \$A72 million.

Peter Shannon, one of the Australian legal team in The Hague, said Nauru had already been fairly compensated under an agreement reached just before independence.

"We believe that adequate compensation was provided for in the... independence settlement," he said.

In the oral hearings which started on Monday, Australia is contesting the court's jurisdiction in the case and the admissibility of Nauru's claim.

Nauru lies about 2000 nautical miles north-east of Australia's east coast.

The International Court of Justice is the judicial branch of the United Nations.

Its decisions are subject to voluntary compliance, since the court has no enforcement powers.

— Reuters

Prostitute had felt obliged to serve policeman, court told

BRISBANE: A former prostitute had felt obliged to have sex with a policeman at the brothel where she worked, she told the officer's Brisbane trial yesterday.

The woman, identified as "Louise", said she had once had sex with Detective Senior Constable David Rodney Smith when she worked at the Sunshine Coast brothel, north of Brisbane.

She told the court she had worked at the premises in 1985 and 1986, and the following year had begun leasing the premises from the madam, Suzanne Greskie.

Smith, 37, of Conondale in the

Sunshine Coast hinterland, has pleaded not guilty to one official corruption charge.

The charge alleges he made an agreement with Ms Greskie so police could have free sex at the brothel in return for failing to properly police prostitution laws.

Smith's senior defence counsel, John Griffin, QC, suggested to "Louise" yesterday that she had never had sex with his client.

"Louise" replied, "You can suggest that if you want to but I know different."

She said she had felt obligated to have sex with Smith in the brothel because Ms Greskie had

told her the police were "OK" and "occasionally they do like to see one of the girls".

Mr Griffin told the court "Louise" had testified to Queensland's Fitzgerald corruption inquiry but had not mentioned police liked to have sex at the brothel.

"Louise" said she had been nervous during her inquiry evidence and "couldn't remember".

Asked if her memory had now improved, she said, "It has, slightly."

She also agreed with Mr Griffin that, at the time she worked at the brothel, she had been drinking heavily — sometimes more than

a bottle of rum a day. She had since sought help for alcohol addiction.

In other evidence, "Louise" said Smith had contacted her after she began leaving the brothel and she had met him at the local police station.

She alleged he told her he could help her and suggested "you scratch my back, I'll scratch yours".

She said she asked, "Do I have to pay you for this?" and he had said "never seen any money" in relation to the brothel.

The trial is continuing.

Defendant's shoes shown to jury

BRISBANE: Sports shoes allegedly worn by a teenager accused of stomping to death a South African tourist were shown to a jury in a Brisbane Supreme Court trial yesterday.

The 12 jurors viewed the Lynx brand shoes allegedly worn by the defendant, a 19-year-old unemployed man, Shane Sebastian Davis.

Davis has pleaded not guilty to murdering a 19-year-old tourist, Michelle Cohn, at Surfers Paradise, last Boxing Day.

It is alleged he killed her by stomping on her chest and neck.

A shoe sole imprint, identified as having been made by a Lynx brand shoe like the one allegedly worn by Davis, was found on Miss Cohn's chest. Other shoe imprints were found at the murder scene, as were portions of handprints and fingerprints, also allegedly those of Davis.

Miss Cohn's body was found inside a downstairs toilet cubicle at the apartment building where she had been holidaying with her family, also from South Africa.

Davis's aunt, Wendy Augl, of Currumbin Creek on the Gold Coast, testified yesterday that Davis had borrowed a pair of Lynx sports shoes from her son on Christmas Day. She had collected them from Davis's home on December 27, the day after the murder.

The shoes had been grubby and she had wiped them with a kitchen cloth before taking them from the Davis household, Ms Augl testified.

Police detectives investigating Miss Cohn's case took the shoes from Ms Augl about two weeks after the killing, the court heard.

The trial was continuing.

IN BRIEF Bank robbery: man in court

SYDNEY: A man appeared in court yesterday charged over an attempted bank robbery in July during which one of two bandits was killed when a security screen crushed his head.

The robber had jumped on to the counter of the bank at St Leonards, on Sydney's north side, and his head was trapped against the ceiling when a teller triggered the recessed screen.

Bernard John Bortolus, 32, was arrested at Tweed Heads on the NSW-Queensland border on Monday.

He did not enter any plea in Tweed Heads Local Court yesterday. He was remanded in custody to appear in North Sydney Local Court on December 4.

17-year-old charged

SYDNEY: A 17-year-old girl charged with murdering her six-week-old baby girl appeared before Singleton Local Court in the Hunter Valley of NSW yesterday.

The teenager, who cannot be named, was charged last week in relation to a fire at a Singleton caravan park in the early hours of March 29. The fire, in the girl's caravan, resulted in the death of her baby who was trapped inside.

The girl will face Singleton Children's Court on December 23.

Couple's case adjourned

SYDNEY: A Fiji Indian couple will appear in court next month on charges connected with an alleged racket in forged Australian citizenship certificates.

Peter Sundar, 48, and his wife, Ultra Devi, 44, of Drummoyle, face four charges each of having uttered documents knowing them to have been forged.

A court appearance scheduled for Monday had been brought forward to last Friday by agreement because of other commitments of some legal representatives in the case, court sources said.

The case was adjourned yesterday to December 9 and bail was continued but varied, with the couple now to report to a police station every two days instead of daily, as ordered on September 23.

Peter Ladocki is due to make a second court appearance in Newcastle on November 20 charged with 14 counts of being knowingly concerned in the forgery of a Commonwealth document, and of uttering forged Commonwealth documents.

Fine on corruption charge after new trial

BRISBANE: A former SP bookmaker who stood trial in the 1970s with since-confessed bribes bagman Jack Herbert was fined \$2000 yesterday, after a second trial.

Patrick McIntyre, 68, of Tweed Heads, was convicted by a jury on Monday night of one charge of official corruption, and acquitted of six similar charges.

Herbert, a former policeman, gave in demitted prosecution evidence at McIntyre's week-long Brisbane District Court trial.

Both men had been acquitted, with a third person, in a 1976 trial alleging attempted bribery of a police inspector.

In sentencing yesterday, Judge Frederick McGuire said to McIntyre, "You present as a poor old, decrepit man in the declining years of his life."

He said he had been persuaded "that no good purpose would be served by sending you to prison".

"There are, I think... grounds for showing clemency, but let it be understood that the offence of official corruption is very serious, recent events have borne that out forcibly."

The maximum term for the offence was 14 years' imprisonment with the option of a fine.

In pre-sentence submissions, the prosecution did not press for a jail term.

Defence lawyer Peter Nolan had submitted McIntyre had been recruited by Herbert into paying \$400 a month protection money between 1980 and 1987.

He had also tendered medical reports which stated McIntyre had diabetes and a degenerative lower-back problem causing pain in both legs, and commented that incarceration "would be the equivalent of a death sentence".

Judge McGuire has allowed McIntyre, a pensioner, six months to pay the fine.

Court hears of fatal shooting of 'intruder'

MELBOURNE: A young man accused of the murder of one of three alleged intruders who allegedly smashed up his parents' home, said yesterday he had been terrified but had no intention of hurting the man.

Nicholas Joseph Sammut, 24, of West Sunshine, in Melbourne's west, told the Supreme Court his wife had just given birth to a child and that the family had been seeing well-wishers on the day of the incident, February 11 last year.

Sammut told the jury he was called from the back of the family home by his sister to hear the sound of breaking glass.

The Crown earlier told the jury the three intruders approached the house with iron bars and chains and started to smash the front door and lounge window.

Prosecutor Richard Read said the incident was the result of a minor scuffle involving Sammut's sister Tess, at a local school.

Sammut said that, after being called to the front of the house, his mother had told him to get a gun, which he took from a wardrobe in a bedroom.

He said he then went to the front door of the house where he confronted the three alleged intruders and told them to leave the property.

"They just laughed at me and they said 'shoot, if you're going to shoot', Sammut told the jury.

"They said 'if you're not going to shoot we'll show you what a real gun is'," he said. He said one of the men had then approached the boot of their car, and he had believed the man was about to produce a gun.

Sammut said he then returned to the house to load the previously unloaded gun he had got out of the wardrobe.

He told the jury he returned to the front door to find the men in the car. Sammut said he fired a shot at the vehicle "trying to scare them away so they would leave".

He said he had no intention of killing anyone or causing serious injury. Sammut told the jury he was terrified at the time, and was trying to ensure the intruders didn't hurt anyone in his family.

During an opening of the defence case, Terry Forrest told the jury the concept of self-defence extended beyond the individual to include the defence of other people and property.

Sammut has pleaded not guilty to one count of murdering John Luigi Dunstan, 23, who allegedly died instantly from a shotgun wound to the neck.

The trial before Justice Cummins is continuing.

LAW LIST FOR TODAY

HIGH COURT
Before the Full Court, in Court 1, at 10.15am: Application for Special Leave to Appeal: Pollitt v The Queen.

FEDERAL COURT
Before a Full Court (Justices Neaves, Ryan, Higgins), in Court 5, Children Street, Canberra, at 10am: For Hearing: Eugenia Maria Lacy v IBM Australia Ltd (per heard).

Before a Full Court (Justices Gallop, Neaves, Von Doussa), not before 10.30am: For Hearing: Nuzume Grunna Trading as Weston Cleaning Service v Eva Verge.

Before Registrar Hodge in Hearing Room 3, Administrative Appeals Tribunal, 3rd floor, AMP Building, Hobart Place, Canberra, at 10.15am: Public Examination under Section 69, Re William Van Den Broek.

FAMILY COURT
Before Justice Coleman, in Court 2, at 10am: Nimmio.

Before Justice Registrar Kibb, in Court 3, at 9.30am: McLenn.

Before Deputy Registrar O'Rourke, in Court 4, at 9.30am: The Marriage Dissolution List.

ACT SUPREME COURT
Before Chief Justice Miles, in Court 1 ACT

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Liquor & Tab Shop CURTIN Curtin Corner Store 83 Theodore Street
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Shop 2, Charnwood Shopping Centre
DICKSON Kags Liquor 12 Batham Street
FRASER Cut Price Fraser
HARVEY Foodmaster 6 Iluka Street
JAMISON Canberra City Cellars

Shop 2, Jamison Centre
MELBA Foodmaster Chinner Place
MONASH Foodmaster Barraburgh Street
NARRABUNDAN Foodmaster 6 Iluka Street
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