



Summary of Judgment

THE CHAIRPERSON OF THE ROYAL COMMISSION INTO THE MANAGEMENT OF POLICE INFORMANTS v CHIEF COMMISSIONER OF VICTORIA POLICE & ORS

[2019] VSCA 154

27 JUNE 2019

The Court of Appeal (Justices Whelan, Beach and Weinberg) today allowed in part an application by the chairperson of the Royal Commission into the Management of Police Informants.

The chairperson of the Royal Commission applied to the Court for orders varying suppression orders made between 2006 and 2017 concerning certain persons ('the relevant persons') who had themselves committed serious crimes and who had given evidence, or agreed to give evidence, against other accused persons for crimes committed during what is known as the 'Melbourne gangland' period. The chairperson also sought a broad authorisation abrogating, in effect, the prohibition upon the disclosure of information identifying the relevant persons under the *Witness Protection Act 1991*, and a declaration concerning a provision of the *Inquiries Act 2014*.

The application was opposed by the Chief Commissioner of Police and by the relevant persons. It was referred to the Court of Appeal upon the request of the chairperson and the Chief Commissioner.

The chairperson made the application because she considered that the suppression orders and the *Witness Protection Act* would frustrate the efficient and effective conduct of her inquiry. The Chief Commissioner and the relevant persons opposed the application on the basis that the orders sought would increase the risk to the safety of the relevant persons and their families and would undermine the system of witness protection.

The Court of Appeal determined to vary the suppression orders by adding a proviso to each order to the effect that nothing in the order prevents the disclosure of information by a person to the Royal Commission or any disclosure by the Royal Commission in accordance with the provisions of the *Inquiries Act* and the *Witness Protection Act*. It did so because it concluded that the applicable legislation put the way the relevant issues are to be addressed into the hands of the Royal Commission itself, with ample power to protect information needing to be protected, and that additional restrictions or prohibitions by orders of the Court were not necessary.

The Court of Appeal rejected the application for authorisation under the *Witness Protection Act* because that Act and the *Inquiries Act* set out a statutory regime under which the prohibition on disclosure in the *Witness Protection Act* does not apply to a person providing information to the Royal Commission or to the Royal Commission after receiving the information, and under which specific provision is made concerning the disclosure of certain information concerning witness protection to or by a Royal Commission. The Court held that that statutory regime should apply.

The declaration sought was not made because, as matters transpired, there was no relevant controversy as to the operation of the particular provision.

NOTE: This summary is necessarily incomplete. It is not intended as a substitute for the Court's reasons or to be used in any later consideration of the Court's reasons. The only authoritative pronouncement of the Court's reasons and conclusions is that contained in the published reasons for judgment.