

MEDIA RELEASE

UNINFORMED PERSONAL ATTACKS ON JUDGES UNDERMINE OUR JUSTICE SYSTEM



NEW SOUTH WALES
BAR ASSOCIATION

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Personal attacks on judges and magistrates on the basis of particular judgments undermine public confidence in our justice system, the president of the New South Wales Bar Association Arthur Moses SC said today.

On Tuesday 8 May His Honour Judge Jeffreys of the District Court was subjected to regrettable criticism that descended into personal abuse on a Sydney radio program in connection with sentences handed down earlier this year. Other sentencing and bail decisions by His Honour Magistrate Jeff Linden were also called into question on the same program, despite the fact that there are matters involving the same offender awaiting trial.

There is no doubt that in some cases that are before the Court, there are factual matters of a distressing nature which justifiably cause the community and media commentators to be angry. However, the judges and magistrates hearing such matters are required as a matter of law to determine each case on the facts and to impose sentences which the law requires. The judge's personal views are not relevant as to how these matters are determined.

It must also be noted that the factual issues relating to a sentence cannot be properly understood unless the evidence that was before the judge has been reviewed in its entirety. In some cases, such as the one that Judge Jeffreys was dealing with that triggered the criticism, there was a non-publication order in respect of some of the evidence that was relied on in the sentencing hearing. Without knowing what that evidence was, it is unfair to criticise the judge.

There was also a suggestion in the radio program on Tuesday, 8 May that Judge Jeffreys was excluded from hearing sexual assault cases. That statement was false.

“Our judges and magistrates work in an under-resourced and busy justice system. These judges and magistrates determine matters in good faith in the context of the available evidence before them. Personal abuse and name calling does not advance public debate and undermines the rule of law.” Mr Moses said.

“Processes exist to ensure that judicial decisions are subject to proper scrutiny. Our appeals system in New South Wales provides appropriate oversight and review of relevant judicial decisions” he said.

“I am not suggesting that judges and courts should not be the subject of scrutiny for their decisions or their conduct where it is appropriate to do so. It is also the right of the public, including any media

commentator to raise concerns and to be critical of a sentence imposed by a judge. That is an important part of a liberal democracy such as ours. However, personal attacks on judges applying the law in good faith, often in difficult and traumatic cases, are inappropriate” Mr Moses said.

“The justice system has its checks and balances to ensure that justice is done. The New South Wales Court of Criminal Appeal routinely overturns sentencing decisions. If a judge has incorrectly applied the law, then the appropriate place to deal with the error is on appeal.” said Mr Moses.

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