



HIGH COURT OF AUSTRALIA

Public Information Officer

13 December 2007

CHANNEL SEVEN ADELAIDE PTY LTD v DR COLIN MANOCK

The High Court of Australia today ruled against a defence of fair comment on a matter of public interest which Channel Seven sought to raise in a defamation action.

Dr Manock is a forensic pathologist who gave evidence for the prosecution in the trial and retrial of Henry Vincent Keogh for the murder of his fiancé Anna-Jane Cheney in 1994. Mr Keogh was convicted in 1995 and sentenced to life imprisonment, with a 25-year non-parole period. He has brought an appeal to the South Australian Court of Criminal Appeal, brought two applications for special leave to appeal to the High Court (in October 1997 and November 2007), and two petitions to the SA Governor for mercy, all without success. On 5 March 2004, during Seven's Today Tonight program, a promotion ran for an upcoming edition of the program. The promotion said in part: "The new Keogh facts. The evidence they kept to themselves. The data, dates and documents that don't add up. The evidence changed from one Court to the next." While these words were said, a picture of Dr Manock was displayed in the background.

On 22 March 2004, Dr Manock began proceedings in the SA District Court for defamation. The case is yet to go to trial. He alleged that the promotion imputed that he had deliberately concealed evidence. Channel Seven pleaded a number of defences including fair comment on a matter of public interest. The particulars of the fair comment defence alleged he had conducted an inadequate investigation and given inaccurate evidence. Dr Manock sought to have paragraphs 3.18 to 3.39 of the fair comment defence struck out. His application to Judge Geoffrey Muecke was partly successful. Dr Manock appealed to the Supreme Court and the Full Court ordered that all of paragraphs 3.18 to 3.39 be struck out. Seven appealed to the High Court seeking to have the paragraphs reinstated.

The High Court unanimously dismissed the appeal, granted special leave to Dr Manock to cross-appeal and allowed the cross-appeal. It held that statements in the promotion, taken separately or together, were presented as fact and not recognisable as comment. The alleged comment was also not based on facts which were either expressly stated, sufficiently referred to or notorious. The Court held that the fair comment defence should be struck out.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*