



[4] On 23 March 2017 Mr Saleh filed an application for a restraining order under the Harassment Act 1997. Mr Saleh swore and filed an affidavit in support. Notice of defence was filed along with an affidavit by Mr Pilmer who is a sworn constable of the police holding the rank of detective.

[5] On 16 May 2017 the proceedings came before me. It was a directions hearing. It was not a hearing into the merits. After hearing from the parties I struck out the proceedings against the New Zealand Police. I found that harassment proceedings could not be brought against the New Zealand Police as they were not a person. The case against Mr Pilmer was adjourned. I made directions.

[6] Mr Saleh was warned by me to not ask me questions about how he should proceed. He had elected to act for himself. He was held in contempt. I arranged for the duty solicitor Mr Blaikie to see him. Later in the day Mr Saleh came back into Court. He apologised. I purged his contempt and released him.

[7] Mr Franklin was present at Court that day. He was at the back of the Court. He tells me and I accept that he had difficulty hearing all that was being said. He wanted an accurate record. He said he was promised that he would get a transcript by a Court official.

[8] On 16 May he filed an application for the transcript. On 27 November 2017 he filed a request under the Official Information Act 1982 for a transcript. He filed two affidavits in support of that, both affirmed by himself. The affidavits, I mean no disrespect to Mr Franklin, do not address the matters that need to be addressed in relation to the release of Court documents to someone other than a party. They generally complained about previous hearings involving Mr Saleh both in the Family Court and the Criminal Court. A further submission was filed on 7 February 2018. The main complaint there was Judge Harrison's decision where he struck out the proceedings against Mr Pilmer.

[9] As I have said at the commencement of this hearing to Mr Franklin what I was concerned with in his application and what I must focus upon is the hearing before me on 16 May 2017. I have no jurisdictional power to release documents in relation to

other hearings. Applications must be made to those specific Judges if further documents are sought.

[10] The application must be dealt with under the District Courts (Access to Court Documents) Rules 2017. As Mr Franklin is not a party of the proceedings rule 8 is the starting point. Rule 8 in relation to civil proceedings states that every person has the right to the formal Court record relating to Civil proceedings. The formal Court record is defined. It does not include a transcript of the hearing. The second part of Mr Saleh's hearing, that is the contempt was also under the civil jurisdiction of the Court and if so is covered by the same rules.

[11] I say that because Mr Franklin in his documents a number of times said there was no charging document in relation to the contempt. There is not a charging document filed in relation to contempt either in the civil or criminal jurisdiction. The procedure is as now set down. It does not require and never has required filing of a charging document.

[12] This application therefore must be dealt with by me under rule 11. A written request must be made. That has been done. The person making the request must identify himself fully and must give a residential address. Mr Franklin has complied with that. The request must set out sufficient particulars of the document to enable the registrar to identify it. That has been done.

[13] Reasons must be given by the person asking for access as to why they think they should get it and the purpose for which they want it. Mr Franklin did not fully articulate that in the various documents that he filed. However today he has submitted to me that he wishes it to ensure that he has an accurate record of what was said. He considers that Mr Saleh has been poorly dealt with by the Justice System and in part of that by the various Judges that Mr Saleh has appeared before. Mr Franklin wishes to work his way back to see where and why that first occurred, to use Mr Franklin's words, "Work back up the river."

[14] The fourth matter is any conditions on the right of access, that is conditions that he would be prepared to meet, were the Judge to impose those conditions.

Mr Franklin accepts that a condition that would prevent or restrict him from disclosing the transcript apart from one matter would be appropriate.

[15] The one exception to the general condition that I am asked to make is that he can use the document within the Justice system both in its criminal, family and civil jurisdiction to work out where it started to go wrong for Mr Saleh. I of course make no comment whatsoever whether the system did go wrong. That is Mr Franklin's submission to me.

[16] As the rules state in the matters I must consider under rule 9 is the protection of confidentiality and privacy interests of the parties or of any other person named. I have read the transcript. There are no privacy matters in the discussion before me on 16 May which cause me concern. The principle of open justice that is enshrined in our Bill of Rights and also in rule 12, the freedom to seek, receive and impart information.

[17] However documents must not be released if it would in some way hinder or put people off from taking proceedings in the Court. That if they take proceedings and of necessity put in those proceedings matters of a very private and personal nature then they should be comforted that a Judge will not allow such information to be disclosed to people who walk off the street and ask for it.

[18] As a result I direct that Mr Franklin can have a copy of the discussion and the proceedings that occurred before me on 16 May 2017 in the above case. It is given to him on the condition which he accepts that he will not publish it in any media, that includes any electronic media such as Facebook, Twitter, Instagram or anything on the internet. He can let other persons view the transcript but he is not to provide a copy of it to anyone else. Mr Franklin is content with that because he only seeks a very limited purpose for disclosure.

[19] I give Mr Franklin leave to return to Court on a formal written application if he seeks for that condition to be reviewed. I give him that leave because there may well be some other good reason why he wants limited publication of the document that I will release to him.

D J McDonald  
District Court Judge