

**2022 Special Commission of Inquiry  
into LGBTIQ hate crimes**

**Before: The Commissioner,  
The Honourable Justice John Sackar**

**At Level 2, 121 Macquarie Street,  
Sydney, New South Wales**

**On Wednesday, 15 February 2023 at 10.30am  
(Day 20)**

<b>Mr Peter Gray SC</b>	<b>(Senior Counsel Assisting)</b>
<b>Ms Claire Palmer</b>	<b>(Counsel Assisting)</b>
<b>Mr Enzo Camporeale</b>	<b>(Director Legal)</b>
<b>Ms Caitlin Healey-Nash</b>	<b>(Senior Solicitor)</b>

1 THE COMMISSIONER: Yes, Mr Gray, we have Dr Dalton on the  
2 screen?

3  
4 MR GRAY: Yes, Commissioner.

5  
6 THE COMMISSIONER: Can you hear me, doctor?

7  
8 DR DALTON: Yes, I can, thank you.

9  
10 THE COMMISSIONER: Thank you.

11  
12 MR GRAY: Commissioner, I will let Dr Dalton approach the  
13 matter in the way he wishes to, but as you know,  
14 Commissioner, this is an application by Dr Dalton  
15 essentially to give evidence in the next stage of the  
16 hearings concerning Strike Force Parrabell by audio-visual  
17 link.

18  
19 I think there has been some correspondence, including  
20 the provision of two medical reports by Dr Dalton, and they  
21 have been assembled as annexures to an affidavit by  
22 Mr Camporeale, for the Solicitor Assisting the Commission,  
23 and I understand Dr Dalton has that affidavit. It is  
24 simply annexing correspondence that has passed between him  
25 and the Commission.

26  
27 THE COMMISSIONER: Yes, all right.

28  
29 Doctor, I have listed this matter this morning and  
30 provided an opportunity for you, if you wish, to articulate  
31 any further reasons why you wish to have your evidence  
32 heard by AVL, and if there is anything along those lines in  
33 support of it or in addition to what I already have.  
34 I have read, you may assume, the letter of Dr Moss of  
35 21 December. I've also read the letter, as it were, of  
36 Dr Hayward received more recently. But by all means, if  
37 there is anything further you want to say or anything you  
38 would like to say, please do so.

39  
40 DR DALTON: Just to be clear because I'm a little bit  
41 confused, am I addressing you, Commissioner?

42  
43 THE COMMISSIONER: You are addressing me, yes. I'm the  
44 person who is going to make the decision, Dr Dalton.

45  
46 DR DALTON: Sure.

47

1 THE COMMISSIONER: So, yes, by all means, any arguments or  
2 matters you want to refer to, please address them to me,  
3 thank you.  
4

5 DR DALTON: Sure. Firstly, I'd say I'm ever so slightly  
6 confused because when I spoke to Caitlin my understanding  
7 was that there was an initial layer to get this chance to  
8 address you, and I thought I hadn't surmounted that hurdle  
9 so I was slightly surprised that, given the way she  
10 explained it, that I was given this opportunity today and  
11 I thank you for that sincerely.  
12

13 I've been in a terrible way just due to a lot of life  
14 circumstances and changes and I lost my job as an associate  
15 professor. I now work for the Australian Federal Police.  
16 It's very stressful, the transition to this work. I have  
17 suffered major depression and anxiety lately. I'm taking  
18 an anti-depressant drug. I have builders next door to my  
19 house that are removing the fence today. I don't know how  
20 next week I'm going to secure the greyhound inside, because  
21 normally he'd be outside in the backyard and I can let him  
22 in and out to go to the toilet, but there is going to be no  
23 fence for a while. I haven't been sleeping very well. My  
24 twin brother lost his job yesterday and is under a lot of  
25 stress. I'm trying to support him.  
26

27 I would just dearly love - I'm almost begging you to  
28 let me just have the opportunity to be in Adelaide. I will  
29 cooperate, I will answer every question, and not have to  
30 get on a plane and fly to Sydney.  
31

32 I had COVID a few months ago and my doctor could  
33 attest - I'll explain this as succinctly as I can. I was  
34 born a premature twin, I weighed 2 pound 13 ounces. I've  
35 had compromised lungs since the day I was born and when  
36 I get a chest infection or COVID I go down for the count in  
37 a major way.  
38

39 I used up all my sick pay, the little sick leave I had  
40 at the Australian Federal Police, because when I left the  
41 university, the 280 days I had vanished overnight, as is  
42 the practice.  
43

44 And so if I was to get COVID again, which is my great  
45 terror, by having to go to the airport, I'll be - I just -  
46 you know, you could say it's speculation on my behalf but  
47 I'm being honest, you can talk to Dr Moss. You know,

1 I often end up - I've got strong lungs but when I get  
2 a chest infection or COVID I really go down for the count.

3  
4 I know I'm speculating, I could fly to Sydney and not  
5 get COVID, but if I did, I have no more leave left at the  
6 AFP at all. You know, I'm not going to exaggerate or tell  
7 you anything that's not true. I was really concerned about  
8 an ear infection I had this week, I thought that would  
9 almost have certainly stopped me flying but I went -  
10 I managed the - I begged the ENT specialist to see me and  
11 he used a special device to clean out my ears, like a  
12 medical Karcher device, and he said they were looking  
13 pretty bad but they are not infected. I don't have an  
14 infection, I'm not going to exaggerate or any such thing.

15  
16 But I've just been in such - the whole stress of this  
17 all, I just want to cooperate but I would just - I'm  
18 literally begging you to let me just remain in Adelaide so  
19 I can sleep in my own bed. I never sleep well in hotel  
20 beds. I don't know what else to say. I'm happy to answer  
21 any question you'd like to ask me.

22  
23 THE COMMISSIONER: Well, the first thing is this,  
24 Dr Dalton: the summons, there is no - if a subpoena is  
25 issued out of the court, for example, an employer is not  
26 entitled to punish in any way, shape or form a person who  
27 has to attend at a hearing. So I cannot for the moment  
28 understand or accept that you would lose any emoluments or  
29 salary, for that matter, by being in Sydney for a day or  
30 two or whatever it might be.

31  
32 DR DALTON: No, no, to be clear, I raised - yes, I raised  
33 this with them and said if I'm compelled to attend, be it  
34 in Adelaide or Sydney - and they have agreed that they  
35 would have to pay my salary. Yes, I agree, that's not akin  
36 to being --

37  
38 THE COMMISSIONER: If I may say so --

39  
40 DR DALTON: But if I got sick, they won't pay my - if  
41 I were to get sick with COVID or something, they're very  
42 clear about that as well. I have no - I think I've one and  
43 a half days' sick pay accumulated now.

44  
45 THE COMMISSIONER: Well, I understand that. The other  
46 thing is that the Australian Federal Police is a federal  
47 organisation, there are offices here in Sydney. Secondly,

1 you could access your psychologist or Dr Moss by Microsoft  
2 Teams, telehealth or otherwise, and, of course, we have  
3 a support person here at the Inquiry who would be readily  
4 available to assist you if there were any difficulties. So  
5 let me just ask: is there anything further that you wish  
6 to say? And of course I think it has been made clear that  
7 your expenses - that is, your airfares, et cetera, and  
8 accommodation - would all be covered by the Inquiry. So as  
9 far as I understand it - and I'll be corrected if I'm  
10 wrong - you would not be out of pocket at all by being  
11 here.

12  
13 DR DALTON: Dr Moss only works a couple of days a week and  
14 gets booked out frequently in advance, so I can't actually  
15 access assistance from him. As to the expenses, I --

16  
17 THE COMMISSIONER: Excuse me. He wouldn't be readily  
18 available to you even if you were in Adelaide, then?

19  
20 DR DALTON: No, he wouldn't.

21  
22 THE COMMISSIONER: Okay, all right. But your  
23 psychologist, Dr Hayward, if needs be, I presume would be  
24 and/or arrangements could be made to accommodate that need  
25 if it were to arise?

26  
27 DR DALTON: I'm acknowledging that you have a support  
28 person at the court, et cetera --

29  
30 THE COMMISSIONER: But I also have an obligation, doctor.  
31 I'm conducting a public inquiry, you have been a joint  
32 author to a very important report, some of which has  
33 already been outlined before me but which will be an  
34 important aspect to consider, and that is very much an  
35 important matter that I've got to take into account in  
36 terms of balancing the administration of justice and the  
37 general notion that justice should be open justice, and  
38 open justice, generally speaking, should be done with  
39 persons in a room, these days, and able to be asked  
40 questions, and you being able to be referred to documents  
41 easily.

42  
43 That's a very significant matter that I've got to take  
44 into account because there will be documents, and I'm  
45 perhaps speculating myself, but I'm certain there will be  
46 documents that you will need to be shown. There are  
47 practical issues involved with that, and so there is an

1 efficiency issue that I've got to deal with, apart from  
2 which I have to get this Inquiry over and done, and  
3 technology, although it's working in some respects, doesn't  
4 always work on time and doesn't always work continuously,  
5 and that has been my bitter experience in hearing a number  
6 of cases, with COVID, over the last few years.

7  
8 But, look, I'm not going to stop you. If there is  
9 anything more you would like to say please, now, I have  
10 heard what you have said and I have read the reports, if  
11 there is anything further you would like to say - the only  
12 thing I would ask Mr Gray to indicate to me, and for you,  
13 when you got the summons, it was anticipated you would be  
14 here on a particular day. Given certain developments which  
15 have occurred here, I'm not sure what that day might be.

16  
17 Mr Gray, are you able to update myself and/or  
18 Dr Dalton as to when the most likely time he would be  
19 needed in Sydney?

20  
21 MR GRAY: Commissioner, my best estimate now, in the light  
22 of some developments in the last day or two, is probably  
23 Monday, the 27th.

24  
25 THE COMMISSIONER: Monday, the 27th. All right. So that  
26 is a change considerably from previous dates that you might  
27 have had in your diary, Dr Dalton.

28  
29 DR DALTON: Yes, it is.

30  
31 THE COMMISSIONER: Okay. The dividing fence issue would  
32 be solved by then, presumably, or largely solved by then,  
33 wouldn't it?

34  
35 DR DALTON: Yes, I would agree with that.

36  
37 THE COMMISSIONER: Is there anything else that you want to  
38 say to me this morning?

39  
40 DR DALTON: No.

41  
42 THE COMMISSIONER: All right. Doctor, I refuse your  
43 application. You are entitled to reasons, and I will  
44 indicate to you that I propose to put something in writing.  
45 I will make it available to you before the end of this  
46 week. It will set out in some little detail, taking into  
47 account what you have said to me this morning.

1  
2 Please proceed upon the basis that I am entirely  
3 sympathetic to the number of matters that you have raised  
4 this morning, but the administration of justice and my  
5 obligation in relation to this public inquiry has to be  
6 balanced against, first, all the medical evidence which is  
7 readily available and what you have said this morning.  
8

9 I have taken into account what you have said. I am  
10 sympathetically disposed to a number of things you have  
11 said. If those matters cause you issues when you are in  
12 Sydney, we will deal with those and you will not have an  
13 unsympathetic ear from me if you need some time out of the  
14 witness box or something to that effect. We will deal with  
15 it on an ad hoc basis.  
16

17 But otherwise, doctor, I refuse the application.  
18 I want you in Sydney, please, on the 27th. If that means  
19 efficiently coming up on the Sunday, someone here will talk  
20 to you about arrangements and make it as easy as possible.  
21

22 For example, if you didn't want to get on a plane but  
23 you wanted to get a train, I would accommodate any  
24 convenient way by which you want to come to Sydney.  
25

26 DR DALTON: Can I respectfully ask, isn't my Sunday  
27 allowed to be my own day to look after my health and do  
28 what I wish --  
29

30 THE COMMISSIONER: Absolutely. I'm not suggesting to you  
31 for a moment that you have to travel on a Sunday. What  
32 I said to you a moment ago, if you would listen to what I'm  
33 saying, is if it would suit you to come up on the Sunday  
34 afternoon, for the Monday morning, I would accommodate you.  
35 If it doesn't suit you, I'm not going to force you to do  
36 it. Of course I'm not. I'm offering it to you as some  
37 degree of flexibility --  
38

39 DR DALTON: Okay. I didn't understand what you said.  
40

41 THE COMMISSIONER: I'm sorry. Well, I apologise if what  
42 I said was misunderstood.  
43

44 DR DALTON: No, you don't have to apologise, it's okay,  
45 I misunderstood. You were very clear; I just didn't  
46 understand you.  
47

1 THE COMMISSIONER: Okay, if upon reflection, however, your  
2 circumstances suggest that Sunday afternoon would suit you  
3 better, we will accommodate it. If it does not suit you,  
4 you will not need to be on a plane or on a train or  
5 whatever it is on Sunday afternoon. I'm not forcing that  
6 on you at all.

7  
8 DR DALTON: Might I ask, respectfully, as this process has  
9 ensued, there has been no degree of clarity about whether  
10 I'm required for one, two, three or five days. Will it  
11 become clear, so I can make arrangements in the timing of  
12 the matter, how many days?

13  
14 THE COMMISSIONER: Yes. What I will do is I will ask  
15 Mr Gray to give his best estimate. But if you please  
16 listen to those words "best estimate". Some of this, of  
17 course, depends upon you. You are the person who will be  
18 asked the questions.

19  
20 It will also depend upon Mr Tedeschi KC and any  
21 questions he may wish to ask you. He, of course, is  
22 appearing on behalf of the NSW Police. So whilst Mr Gray  
23 can give you his best estimate in relation to him, he won't  
24 necessarily be able to give you any estimate I expect in  
25 relation to Mr Tedeschi. So to that extent, if the police  
26 do have questions of you, to some extent, that is out of my  
27 hands, certainly for the moment, in terms of being able to  
28 give you a time estimate.

29  
30 Mr Gray, are you able to give Dr Dalton your best  
31 estimate at the moment on how long you think you might have  
32 him - that is, asking questions of him?

33  
34 MR GRAY: Yes, Commissioner. I could be as long as a day,  
35 that is, one day, with Dr Dalton, and perhaps even a little  
36 more than one day, but certainly well and truly less than  
37 two days. Whether counsel for the police extends that in  
38 any significant way, of course I can't say.

39  
40 THE COMMISSIONER: No, all right.

41  
42 Doctor, you can assume that at the moment it's  
43 certainly Monday, Tuesday. You can assume that, 27, 28.

44  
45 DR DALTON: Sure.

46  
47 THE COMMISSIONER: You can also assume that the moment you

1 are finished, we will either have in place arrangements for  
2 you to travel immediately back to Adelaide or alternatively  
3 we will make such arrangements during the course of either  
4 the Tuesday or if it needs to be the Wednesday morning to  
5 suit your personal convenience in terms of timings.  
6

7 So that's all I need to say this morning. So, doctor,  
8 thank you very much for making yourself available.  
9

10 DR DALTON: Thank you.

11  
12 THE COMMISSIONER: I will deliver before the end of the  
13 week to you and to others written reasons which give more  
14 indication and more clarity around the particular reasons  
15 why I think it is appropriate that you come to Sydney.  
16

17 DR DALTON: Okay.

18  
19 THE COMMISSIONER: All right. And thank you. If you  
20 wouldn't mind telling the Federal Police that it's at least  
21 27 and 28 February in Sydney, and we will do our best when  
22 we have Mr Tedeschi at close range to ask him, perhaps at  
23 the end of this week or next, how long he might likely be  
24 with you so we can make arrangements.  
25

26 DR DALTON: Can I just ask, I know you are very busy, one  
27 final question. So Mark Tedeschi KC is the barrister for  
28 the NSW Police.  
29

30 THE COMMISSIONER: Yes.  
31

32 DR DALTON: Do you have a barrister working for the  
33 inquiry?  
34

35 THE COMMISSIONER: That's Mr Gray, who I have been  
36 directing some questions to. Mr Gray, who is a Senior  
37 Counsel here in New South Wales, he is my Senior Counsel  
38 Assisting the Inquiry and hence assisting myself. So he  
39 will be the first person - he will be the person who in the  
40 first instance asks you some questions, and then  
41 Mr Tedeschi, if he has any questions, will then follow.  
42

43 DR DALTON: But of course, as I can't afford counsel,  
44 I don't have a barrister. That's just how it goes.  
45

46 THE COMMISSIONER: You are a witness at the moment. You  
47 are not a party to the proceedings. You are a witness and

1 I'm calling you because of your, on one view, central role  
2 in the production of the Parrabell report. And so it's  
3 understandable --

4  
5 DR DALTON: I understand that.

6  
7 THE COMMISSIONER: You won't need too much imagination to  
8 work out why it is, given my Terms of Reference, I regard  
9 you as a person from whom I want to hear.

10  
11 DR DALTON: Yes. I'm just concerned that I'm up against  
12 two barristers and I don't even have a lawyer in the room,  
13 so it's sort of --

14  
15 THE COMMISSIONER: No, Dr Dalton, that is a matter for  
16 you, and maybe the Federal Police or somebody within the  
17 Federal Police can assist you, if you need assistance, but  
18 I emphasise, you are a witness. Unlike the NSW Police, you  
19 are not a party, as it were. You are a witness, along with  
20 many other, witnesses, including police officers and other  
21 persons who have already given evidence before me and who  
22 in due course will come and give evidence. So you are  
23 a witness.

24  
25 DR DALTON: Thank you for that clarification. I don't  
26 think that was totally apparent to me. Thank you.

27  
28 THE COMMISSIONER: All right. Doctor thank you --

29  
30 DR DALTON: I actually feel a little bit more assured by  
31 that explanation.

32  
33 THE COMMISSIONER: All right. Well, thank you again for  
34 being available this morning, doctor. I will now adjourn  
35 the proceedings and we will see you in Sydney some time on  
36 Monday, the 27th.

37  
38 DR DALTON: Thank you, Commissioner. Have a good day.

39  
40 THE COMMISSIONER: Thank you. I will adjourn.

41  
42 **AT 10.49AM THE COMMISSION WAS ADJOURNED ACCORDINGLY**  
43  
44  
45  
46  
47

**1**

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