

Finucane, Michael

From: Frengley, Alister
Sent: Tuesday, 8 October 2019 4:41 p.m.
To: crownaccounts.payable@justice.govt.nz
Subject: Dunedin Invoice from Judge's Judgment
Attachments: 20191007160424351.pdf; 20191007160430680.pdf

Good afternoon,

Attached is the first and last page of a Judgment delivered by a Judge here in Dunedin. In this Judgment he made a costs award to the defence of \$130,544.13. This gets paid from the Crown Account of 'Costs in Criminal Cases'

Can you please load this as an invoice.

RC 28500 (Dunedin District Court)
Natural Account 7620 (Costs in Criminal Cases)

Description: CRI 2015-012-805 Costs Awarded

I have also attached an email from the defence counsel with the Bank Account they would like this money paid into.

Please let me know if you require anything else.

Kind regards
Alister



Alister Frengley
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NOTE: PUBLICATION OF NAME(S), ADDRESS(ES), OCCUPATION(S) OR IDENTIFYING PARTICULARS OF COMPLAINANT(S) PROHIBITED BY S 203 OF THE CRIMINAL PROCEDURE ACT 2011. SEE

<http://www.legislation.govt.nz/act/public/2011/0081/latest/DLM3360350.html>

ORDER PROHIBITING PUBLICATION OF NAME(S), ADDRESS(ES), OCCUPATION(S), SCHOOL OR IDENTIFYING PARTICULARS OF WITNESS/VICTIM/APPLICANT OR CONNECTED PERSON(S) PURSUANT TO S 202 CRIMINAL PROCEDURE ACT 2011. SEE

<http://www.legislation.govt.nz/act/public/2011/0081/latest/DLM3360349.html>

**IN THE DISTRICT COURT
AT DUNEDIN**

**I TE KŌTI-Ā-ROHE
KI ŌTEPOTI**

**CRI-2015-012-000805
[2019] NZDC 16616**

**THE QUEEN
Prosecutor**

v

**T E W
Applicant**

Hearing: 12 August 2019
Appearances: R P Bates for the Crown
J H Eaton QC for the Defendant
Judgment: 26 August 2019

**RESERVED JUDGMENT OF JUDGE K J PHILLIPS
Application for Order Awarding Costs to the Applicant**

Background

[1] T E W (here and after referred to as “the Applicant”) was the defendant at a trial that took place in the Dunedin District Court before a jury between the 22 March

indemnity level. Further having accepted Mr Eaton's submission in relation to the fact that the complainants A and R were not re-interviewed following the interviews conducted with the three friends and the Mother of two of the complainants, I note that in relation to the complainant BM those issues do not apply. In the particular set of circumstances relating to the charge involving BM I find it was an appropriate case for the jury to decide by having regard to all of the evidence available to it on the BM charge.

[63] The total costs incurred by the Applicant as per the schedule attached by the submission filed by Mr Eaton is the sum \$391,642.40. In relation to the complainant BM, I do not find that an award of costs, on any basis involving a level of negligence on the part of the prosecution is established, but rather the acquittal on that charge was obtained by the fact that the complainant BM's evidence was such that in the terms of s 5(2)(f), the Applicant established that he was not guilty by cross-examination. I am entitled on the various authorities to award costs in relation to the acquittal so obtained. I go back to the test as to what is reasonable and fair in all the circumstances of the case. I take into account all that has been put to me. I also take into account that there were some 10 and a half days of hearing time involved in the two trials.

[64] I consider an award of costs calculated on the basis of one third of the total cost is both just and reasonable in all the circumstances of this case. I hold that the sum of \$130,544.13 is the appropriate sum as a payment towards the costs and I make an Order for the payment of that sum in favour of the Applicant, T E W.

KJ Phillips
District Court Judge

Signed at Dunedin on 26 August 2019 at 1.35pm