

*Taylor v Bell* [2005] NTSC 24

PARTIES: ALISTAIR JAMES TAYLOR

v

DARREN GRANT BELL

TITLE OF COURT: SUPREME COURT OF THE  
NORTHERN TERRITORY

JURISDICTION: SUPREME COURT OF THE  
NORTHERN TERRITORY

FILE NO: No 54 of 2005 (20508114)

DELIVERED: 31 May 2005

HEARING DATES: 26 and 31 May 2005

JUDGMENT OF: RILEY J

**CATCHWORDS:**

**REPRESENTATION:**

*Counsel:*

Plaintiff: P. Elliott  
Defendant: F.J. Davis

*Solicitors:*

Plaintiff: Northern Territory Police, Fire and  
Emergency Services  
Defendant: Davis Norman

Judgment category classification: B

Judgment ID Number: ril0509

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IN THE SUPREME COURT  
OF THE NORTHERN TERRITORY  
OF AUSTRALIA  
AT DARWIN

*Taylor v Bell* [2005] NTSC 24  
No 54 of 2005 (20508114)

BETWEEN:

**ALISTAIR JAMES TAYLOR**  
Plaintiff

AND:

**DARREN GRANT BELL**  
Defendant

CORAM: RILEY J

EX TEMPORE  
REASONS FOR JUDGMENT

(Delivered 31 May 2005)

- [1] This is an application by the plaintiff, Alistair James Taylor, for an order permanently staying a private prosecution commenced by the defendant against him alleging the crime of perjury.
- [2] On 30 April 2000 the plaintiff, in his capacity as a member of the Northern Territory Police Force, charged the defendant with being armed with an offensive weapon, namely a baseball bat, contrary to s 56A of the Summary Offences Act. The matter proceeded to a defended hearing in the Court of Summary Jurisdiction and, on 11 July 2000, the defendant was convicted.

On 25 March 2003 the defendant commenced a private prosecution against the plaintiff charging him with, inter alia, perjury under ss 96 and 97 of the Criminal Code arising out of the evidence he gave at the hearing.

On 11 December 2003 an oral committal was held following which the plaintiff was committed for trial. On 19 April 2004 the Director of Public Prosecutions issued a certificate pursuant to the provisions of s 297A of the Criminal Code advising that it was not intended to put the plaintiff on his trial.

[3] On or about 28 November 2004 the defendant commenced a further private prosecution against the plaintiff for the same charge of perjury based upon the same circumstances that had been the subject of the earlier proceedings.

[4] In those circumstances the plaintiff has applied for orders for a permanent stay of the information on the grounds that it is an abuse of court process being unjustifiably vexatious and oppressive.

[5] Neither the Court of Summary Jurisdiction nor an examining magistrate has the power to grant a stay of proceedings or an indefinite adjournment:

*Grassby v The Queen* (1989) 168 CLR 1 at 16-18. The general oversight of the criminal process is the responsibility of a superior court of unlimited jurisdiction for the administration of justice, such as the Supreme Court of the Northern Territory. This Court has a general supervisory power to protect inferior tribunals from abuse. In my view this Court has power to direct a stay of proceedings in circumstances where the processes of

examining magistrates are being abused: *Clayton v Ralphs and Manos* (1987) 45 SASR 347 at 380 and 401-402; *Fuller v Field & South Australia* (1994) 62 SASR 112 at 116.

[6] The circumstances of this case give rise to an abuse of process. The proceedings now underway are a repeat of the proceedings that have recently been completed and terminated by the Director of Public Prosecutions issuing a no true bill pursuant to s 297A of the Criminal Code. If the proceedings continue there will be another committal hearing before another magistrate dealing with, effectively, the same evidence. That in itself is oppressive and embarrassing in the legal sense of that word. It opens the prospect of inconsistent administrative decisions being made by different judicial officers in relation to the same material. If the second hearing results in the plaintiff being committed for trial then consistency of conduct by the Director will see a further no true bill being issued. Nothing will have been achieved other than to require the plaintiff to undergo expensive, unnecessary and embarrassing court proceedings with no prospect of the matter proceeding beyond the committal stage. There must be a finality to the proceedings.

[7] The proceedings commenced by the defendant are “unjustifiably vexatious and oppressive for the reason that it is sought to litigate anew a case which has already been disposed of by earlier proceedings” and which can clearly be seen to be “foredoomed to fail”: *Walton v Gardiner* (1992-1993) 177 CLR 378 at 393. The proceedings are “seriously and unfairly

burdensome, prejudicial or damaging”: *Ridgeway v R* (1995) 184 CLR 19 at 75. To allow the proceedings to continue would be to undermine confidence in the courts generally and should not be permitted.

[8] In my view a stay of the proceedings should be ordered and I so order.

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