



**UNIVERSITY OF SOUTHERN QUEENSLAND LAW
SOCIETY**

2023 CHAMPIONSHIP MOOT QUESTION

The Championship Moot problem question is a criminal law and procedure dispute between Mr Timothy Elias Randall (Appellant) and the Crown (Respondent).

The counsel for the appellant will represent Mr Timothy Elias Randall. The counsel for the respondent will represent the Crown in this matter.

The Appellant was granted leave to appeal after his conviction in the Supreme Court of Queensland on the grounds that he advanced in his (below) written case.

Leave was granted on the following grounds of appeal:

In relation to the murder conviction,

1. That the learned trial judge should have excused himself from the initial trial upon grounds of bias;
2. That the learned trial judge erred by allowing the crown to cross-examine Mr Randall on his past convictions as per s 15(2)(c) of the *Evidence Act 1977* (Qld);
3. That the learned trial judge erred by admitting the evidence obtained through the improperly obtained search warrant;
4. That the learned trial judge erred by not giving a direction to the jury regarding killing on provocation under s 304 of the *Criminal Code Act 1899* (Qld).

Orders sought by the appellant:

In respect to grounds 1, 2, 3 and 4, that the appeal be allowed and for his conviction to be quashed.

AT THE COURT OF APPEAL OF QUEENSLAND

CITATION: *R v Randall* [2022] QCA 69

PARTIES: **RANDALL, Timothy Elias**

(Appellant)

v

R

(Respondent)

Introduction

[1] The defendant, Mr Timothy Elise Randall has been convicted of one count of murder under s 302(1)(a) of the *Criminal Code Act 1899* (Qld). He appeals on the following grounds:

1. That the learned trial judge should have excused himself from the initial trial upon grounds of bias;
2. That the learned trial judge erred by allowing the crown to cross-examine Mr Randall on his past convictions as per s 15(2)(c) of the Evidence Act 1977 (Qld);
3. That the learned trial judge erred by admitting the evidence obtained through the improperly obtained search warrant;
4. That the learned trial judge erred by not giving a direction to the jury regarding killing on provocation under s 304 of the *Criminal Code Act 1899* (Qld).

Circumstances of the Offending

[2] Mr Randall is a 40-year-old man who lives at 123 Appletree Road in Ipswich, Queensland. He had previously worked as a scientist for a company called Apple Tree Laboratories before moving to Ipswich, where he commenced employment for a rival company known as the Orange Organisation. He has a troubled criminal past with a criminal history involving two convictions of supplying dangerous drugs and three counts of administering a poison with intent to harm under s 322 of the *Criminal Code Act 1899* (Qld). In the statement of facts regarding the counts of administering a poison with intent to harm, it was noted that Mr Randall had been extracting cyanide from apple tree seeds and poisoning people including one Ms Strawberry, a known associate of Mr Jarryd Miller.

[3] On the 14th of November 2022, Mr Randall attended the Queensland Science Conference along with two work colleagues, Elisa Keys and Darwin Beaches. Also at the conference on this night was the head of Apple Tree Laboratories, Jarryd Miller and his lead scientist, Brendan Adams. In past years, Mr Randall had worked closely with Mr Miller while he was employed at Apple Tree Laboratories. Both had become good friends until a falling out

between them. After Mr Randall left the company, Mr Adams told many other employees at Apple Tree Laboratories that he believed Mr Randall had stolen his work and noted that he wanted to ruin Mr Randall's professional life. Ms Keys, who worked under Mr Adams, also was under the impression Mr Randall had stolen the laboratories work and was noted to equally dislike Mr Randall.

[4] At the conference, Mr Miller was slated to give a speech at 8pm to discuss a new method for growing fruit trees. During Mr Miller's speech, it was planned that conference attendees were to be seated and dinner would be served, to be eaten at the conclusion of the speech. Dinner was to be spaghetti and meatballs. Before his speech, Mr Miller had consumed quite a number of alcoholic beverages such as 6 shots of vodka, 2 glasses of Moscato and 5 pints of beer. This left Mr Miller in quite an intoxicated state. When Mr Miller was called up to give his speech, he groggily walked over to the stand and was about to give his speech when his eyes settled on Mr Randall. He then exclaimed staring at Mr Randall:

'Oh, I see there's a traitor in the house. You're a disgrace to us all, with you being someone who backstabs and steals ideas. I hope you fail miserably at your new job.'

[5] At this stage, Mr Miller stumbled off stage, into a passing server who spilled Mr Randall's dinner of spaghetti all over Mr Randall who was wearing an expensive Balenciaga white shirt. Mr Randall's face was noted at this time turned bright red, and he got up and angrily stormed out of the room, muttering how he was going to get back at Mr Miller for embarrassing him. The server managed to clean up the mess, while Mr Miller was briefly escorted from the room by all of the members from his table, leaving his dinner and drink unattended. It was noted that about ten minutes after Mr Miller left the room, Mr Randall re-entered the room, walked towards his seat, paused briefly when he passed Mr Miller's vacant seat and then sat down. Mr Miller later re-entered the room looking quite flustered.

[6] At 10pm, while the conference was nearing a close, Mr Miller stumbled and fell onto the floor. Ms Beaches rushed to his aid and checked to find that he was not breathing. She then attempted to perform CPR and resuscitate Mr Miller to no avail. Paramedics then attended the scene and Mr Miller was declared deceased. An autopsy later revealed the cause of death to be cyanide poisoning. Multiple parties witnessed Mr Randall leaving the scene briefly before Mr Miller collapsed.

POLICE INVESTIGATIONS

[7] During police investigations, Mr Randall became a prime suspect. This was due to his past with Mr Miller, the contents of the speech and the evidence of key witnesses, Mr Adams and Ms Keys. Mr Adams contended that he saw Mr Randall put a tablet in Mr Miller's drink while he was absent from his table. He contended that later that evening at 9:15pm, Mr Randall cornered him outside and threatened to kill him if he told anyone what he saw. Mr Adams also noted that Mr Randall had past dealings with cyanide and potentially could have some tablets at his residence due to his work as a scientist. Ms Keys noted that she also saw Mr Randall corner Mr Miller but did not hear what the conversation was about.

[8] After taking a statement from Mr Adams, Senior Constable Matthew Hintz then went before a Justice of the Peace, Ms Sue Bureaucracy and attempted to obtain a search warrant under s 150 of the *Police Powers and Responsibilities Act 2000* (Qld) to search and obtain evidence from Mr Randall's address. The officer had been told by Mr Adams that Mr Randall had a secret underground basement where the tablets would likely be located.

Ms Bureaucracy refused to issue the search warrant. This promoted Senior Constable Hintz to apply to Judge Powell who granted the search warrant. The officer, however, did not inform Judge Powell that the search warrant had previously been refused.

[9] After Senior Constable Hintz obtained this warrant, he and two other officers attended 123 Appletree Road and conducted a search at the premise. While they were there Mr Randall sat quietly in the living room and was cooperative with officers. Senior Constable Hintz then made his way to the basement where he found two packets of white pills, with one packet being completely full and one packet being half empty. The officers then seized the drugs and left the property. When they arrived back at the station, police sent the tablets off for forensic analysis.

[10] After confirming the pills did in fact contain cyanide, police attended Mr Randall's residence a week later and charged him with one count of murder.

TRIAL

[11] Black J presided over the initial trial in the Supreme Court of Queensland. Defence counsel, Mr Samuel Nake represented Mr Randall and Ms Brown represented the Crown. Ms Brown was previously Black J's judge's associate 3 years ago. During the course of the first day of the trial, Ms Brown requested to be Black J's connection on LinkedIn. This request was subsequently accepted by Black J. Mr Nake found out about this and noted in chambers with Black J and Ms Brown that this behaviour demonstrated a clear case of bias and that a mistrial should be ordered. Ms Brown dismissed this notion, noting that it was for professional purposes only. Black J stated that he was inclined to agree with Ms Brown, noting that this was the only reason he accepted the request and offered to connect with Mr Nake as well. Mr Nake refused but agreed to let the trial continue for now.

[12] On the second day of trial, the prosecution called Mr Adams as a witness, who testified that he had seen Mr Randall put a tablet in Mr Miller's drink following the speech. Mr Adam also noted that later that night, Mr Randall had cornered him, and both threatened to kill him if he said anything about him seeing him put a tablet in Mr Miller's drink.

[13] The prosecution case rested heavily upon Mr Adams's statement along with Ms Keys who provided evidence that Mr Randall had past experience with and knowledge of cyanide through his previous work. The evidence from the police autopsy that Mr Miller had died due to cyanide poisoning was also presented at the trial. Ms Beaches, another eyewitness, also gave evidence noting that she had noticed Mr Randall looked quite unhappy following Mr Miller's speech and that she was with Mr Miller when he collapsed.

[14] The prosecution also presented evidence regarding the cyanide pills being located at Mr Randall's address. Mr Nake objected to this evidence being led due to the errors that occurred in the procedure that led to the enforcement of the search warrant. Mr Nake argued that police were required to inform the judge that they had made the search order after it had been initially refused by a Justice of the Peace as per section 152 of the *Police Powers and Responsibilities Act 2000*. Black J ruled the evidence was admissible as the evidence was highly relevant to the crown case.

[15] After the crown case concluded, the defence case opened, and Mr Nake called on Mr Randall to give evidence. In the evidence in chief, Mr Randall noted that he was a world-

leading scientist and that he had created a pesticide free, carbon neutral fertiliser that would help grow orange trees to their fullest potential. He also noted that he had donated to plenty of charities including to the Queensland Science Conference. Mr Randall also that he did not put anything in Mr Miller's drink but admitted to having a tense conversation with Mr Adams following the speech. Mr Randall also gave evidence that both Mr Adams and Ms Keys had a grudge out for him and were likely lying in their evidence. Mr Randall noted that Mr Adams and Ms Keys had falsified data at work to make their product look good which was the real reason he had left Apple Tree Laboratories. Mr Randall also gave evidence that Ms Beaches could have caused Mr Randall's death, noting that she had recently been passed over by Mr Randall for a big promotion, had access to cyanide through her work and was with Mr Randall for the majority of the conference. Mr Randall stated in cross-examination that while he was incredibly angry and in a rage like state after Mr Miller's speech and having spaghetti spilt on him that he did not kill Mr Miller. He noted that he left the room to avoid harming Mr Miller or say anything that could threaten his own professional reputation and came back into the room when he felt that he could.

[17] After Mr Randall's evidence-in-chief, the jury retired, and Ms Brown made an application under s 15(2)(c) of the *Evidence Act 1977 (Qld)* for Mr Randall to be cross-examined on his criminal history. Mr Nake opposed this course of action stating it would be highly prejudicial to Mr Randall if this was to occur. Black J granted the application under s15(3), noting that it would be unfair to the crown to not allow this considering that Mr Randall had just impugned both of the crown witnesses' reliability in his evidence-in-chief. Ms Brown then cross-examined Mr Randall about his three previous convictions of administering a poison with intent to harm. Mr Randall admitted he had committed those offences but maintained his innocence in this circumstance. After Mr Randall's evidence concluded, Mr Nake closed the defence case.

[18] It then came time to consider what directions Black J would give to the jury. Mr Nake asked for direction 98 of *Queensland District and Supreme Court Benchbook* regarding s 304 of the *Criminal Code Act 1899 (Qld)* killing on provocation be given. Mr Nake contended that Mr Miller's actions of his speech and the spilling of the spaghetti on Mr Randall when combined would give rise to the jury deciding that Mr Randall was provoked. Mr Nake noted that this would likely occur if the jury was satisfied on all of the elements of murder. The crown disagreed with this approach, noting that the defendant was not provoked by Mr Miller's actions and if he was somewhat provoked by his actions, that since the cyanide pills were placed in Mr Miller's drink after a considerable amount of time had passed and that there was time for Mr Randall's passion to cool. This would mean that the provocation defence would fail. The crown contended that as this defence was deemed to fail, that a direction on this should not be given to the jury. Black J ultimately decided in the crown's favour and did not direct the jury on provocation. After directions concluded, the jury was then sent out.

[19] After two days of deliberations the jury returned a verdict of guilty on the count of murder. Black J sentenced Mr Randall to life imprisonment for murder.