

Copyright in this document is reserved to the State of Western Australia. Reproduction of this document (or part thereof, in any format) except with the prior written consent of the Attorney General is prohibited. Please note that under section 43 of the Copyright Act 1968 copyright is not infringed by anything reproduced for the purposes of a judicial proceeding or of a report of a judicial proceeding.

THE MAGISTRATES COURT OF

WESTERN AUSTRALIA

CRIMINAL

PE 10333 to 10334 of 2024

WESTERN AUSTRALIA POLICE

and

MAJID JAMSHIDI DOUKOSHKAN

MAGISTRATE T. WATT

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON TUESDAY, 20 FEBRUARY 2024, AT 11.37 AM

MS K. STYNES appeared for the prosecution.

MS S. BYRNE appeared for the accused.

**HER HONOUR:** Thanks, thank you. Yes.

**JSO:** From the J list, your Honour, and I apologise if I get this wrong, is Jamshidi Doukoshkan, Majid. It's a Commonwealth matter.

**HER HONOUR:** Okay, thank you. All right. Okay, now Ms Byrne, I - here we go. You're Majid Jamshidi Doukoshkan?

**ACCUSED:** Yes.

**HER HONOUR:** Thank you. Ms Byrne.

**BYRNE, MS:** May it please the court. I appear as duty counsel. In - I take a legal aid application this morning, seeking adjournment through to 5 April in the Commonwealth list in relation to the charges.

**HER HONOUR:** Yes.

**BYRNE, MS:** There is an application for bail. I will let your Honour hear from the prosecution.

**HER HONOUR:** All right. Ms Stynes.

**STYNES, MS:** May it please your Honour, I appear.

**HER HONOUR:** Yes.

**STYNES, MS:** Your Honour, in relation to bail, the prosecution does have some concerns in relation to the accused committing further offences, in particular in relation to abiding by his curfew.

**HER HONOUR:** Right.

**STYNES, MS:** Is your Honour familiar with the offences before the court?

**HER HONOUR:** No, I'm not. But I'm just going to read him the charges, because they are first appearances today. So the two charges before the court, between 18 February and 19 February at East Perth, you being the holder of a visa, Bridging Removal - Bridging Visa. At time the visa was granted there was no real prospect of your removal from Australia becoming practicable and - in the reasonably foreseeable future, and the visa was subject to monitoring conditions, and you failed to comply with those monitoring conditions. And there's two counts of that charge. You

understand that you're being charged with that offence? So Ms Stynes, can you explain to me what that means? Let's hear the facts.

**STYNES, MS:** Yes, your Honour. Does your Honour wish to hear the facts in relation to the whole matter? Thank you, your Honour. The accused was released from immigration detention on 11 November 2023, due to the High Court of Australia's judgement. The accused was granted a Bridging Visa Removal, pending on 11 November 2023. Effectively a temporary visa, is my understanding, your Honour. On Monday 20 November 2023 the Australian Border Force Status Resolution Officer verbally notified the accused that the Minister had imposed additional visa conditions. And those two were a condition 8620 to abide by a curfew, and that's the subject of the two offences before the court. He is required to adhere to the curfew, residing at a specific address from 2200 hours until 0600 hours in the morning, so effectively 10 pm to 6 am.

**HER HONOUR:** Right.

**STYNES, MS:** And be subject to electronic monitoring. On Thursday 23 November 2023 the Australian Border Force advised the accused via email address that the Minister had intervened to grant a Bridging Visa Removal, and the notification was provided and his visa conditions also. At 1.23 pm the accused consented to be fitted with that electronic monitoring device, and on 8 February 2024 the accused recorded the address that he would be residing at. On 9 February 2024 the accused's electronic monitoring device shows that he left at 10.01 pm and returned at 12.08 am, that's not the subject of the charges, but to inform your Honour that there has been previous breaches. On Sunday 11 February, the electronic monitoring device showed the accused left at 12.40 am and returned at 1.24 am. The same day, he left at 4.22 am and did not return. On Sunday 11 February, the electronic monitoring device showed that the accused left at 10.20 pm, left for several hours, returned at 1.20 am. On Monday 12 February the accused attended the Department of Home Affairs state office and provided - was provided with a new electronic monitoring device and readvised of his requirement to abide by the curfew condition, the electronic monitoring condition. He acknowledged the excuses for the previous breaches were not good and he did not want a referral to the AFP, the Australian Federal Police. On Tuesday 13 February 2024 the electronic monitoring device signalled that the battery was low. The accused was contacted on his mobile phone and requested to charge it. On 14 February 2024 Department of Home Affairs recorded a new address for the accused. On

the same date the accused's electronic monitoring device signalled that the battery was flat, which caused the AFP to then attend on 16 February 2024, and during this attendance the accused was readvised of the curfew condition and the electronic monitoring condition and that it had to be maintained so the device couldn't go flat. The accused advised that he was aware of his visa requirements and had emailed the Department of Home Affairs on 15 February and notified them that the electronic monitoring device was not charging correctly. The accused then reattended the office, the electronic monitoring device was removed and another one refitted. In relation to the current offences before the court, so Sunday 18 February 2024 the accused's electronic monitoring device showed that at 11.33 pm he departed the residential address and returned at 12.13 am on 19 February. The second charge is on Monday 19 February 2024, the accused's device shows that at 5.52 am the accused departed his residential address and returned at 7.58 am the same day. Approximately 2.15 pm on 19 February, Australian Federal Police officers attended the address. He was conveyed to the headquarters of the AFP and he declined to participate in an electronic record of interview and he was arrested in relation to these offences. So ultimately, your Honour, the prosecution does have concerns about his ability to not commit further offences, particularly in relation to the curfew, having regard to his attitude towards compliance thus far, being advised again of the curfew conditions of the Department of Home Affairs and then also by appearance and referral to the AFP. Notwithstanding that, your Honour, we do not oppose bail with a personal undertaking being imposed, but want to make it very well known to the accused that that's the position of the Commonwealth today, but further breaches may not have the same response in terms of attitude towards bail.

**HER HONOUR:** Right, okay. Thank you very much for that.

**BYRNE, MS:** Thank you, your Honour. I did take instructions in relation to the breaches. By way of context, not noted by my friend obviously, this visa was granted on 20 November. There's a large number of conditions attached to the visa, not only the curfew and the electronic monitoring, he has also required to report daily to Border Force offices, he has got to notify of any change of address, notify for work, there's some 16 to 18 conditions on my instructions. On my instructions he has been complying with the majority of the events - of the conditions, but obviously noting the breaches that are before the court and noting that he has been warned. He acknowledges the warning of the officers in the past, but

obviously this has been a very strict warning to him, being brought into custody today and given the advice from me that these are taken incredibly seriously, especially given the context of these types of offences in the community and in the media at this stage, so he's obviously alive to that. And I've given him very strict warning on that, noting also the warning from the Commonwealth today. Noting that he does have those strict conditions, will still be subject to electronic monitoring and the curfew conditions, I am asking your Honour to consider the personal undertaking through to 5 April, but obviously he's well aware that if bail is granted today, any further allegations of breaches he would be brought to the AFP and would be brought before the court. In terms of the actual offences themselves, he doesn't wish to provide an explanation, mainly because he doesn't wish to provide an excuse. There is no excuse, although noting the second offence, it was only eight minutes before his curfew, he said he checked his watch, thought it was six o'clock but it was obviously earlier, it was 5.52. So he's obviously - I've given him the warning that he needs to make sure, even an hour buffer time if he can, before leaving the house given that curfew. The other offence, he instructs that his partner was stuck at a restaurant, unable to pay, unable to essentially leave, so he went there to pay for the items to allow her to leave. But obviously I've noted that that needs to be a problem for his partner, not him, and obviously if he's in custody he's not able to assist her anyway. So I've given him that strong warning, but I would be asking your Honour to consider bail today.

**HER HONOUR:** What happens with the electronic monitoring equipment?

**BYRNE, MS:** I think he's still fitted with it at the moment, and the battery is still at the house.

**STYNES, MS:** That's my understanding, your Honour.

**BYRNE, MS:** Yes.

**HER HONOUR:** Okay.

**STYNES, MS:** So your Honour, for completeness, can I just set out for your Honour the maximum penalty for this offence is five years' imprisonment and 300 penalty units.

**HER HONOUR:** Yes.

**STYNES, MS:** It can also be dealt with summarily if the Commonwealth consents. But for your Honour's benefit, there's a mandatory one year term of imprisonment.

**HER HONOUR:** Right.

**STYNES, MS:** In relation to each offence.

**HER HONOUR:** You talked about a personal undertaking, is that to be accompanied by a residential to be approved by - was it the Home Office that's approving it, and the electronic monitoring equipment?

**STYNES, MS:** Your Honour, we weren't intended to suggest those be placed as conditions, given - - -

**HER HONOUR:** Because of the visa?

**STYNES, MS:** Yes, your Honour, he's already subject to those, and I couldn't think of any further conditions that he's not already subject to as part of the visa conditions.

**HER HONOUR:** Does he have a surety available?

**BYRNE, MS:** I apologise, I didn't take instructions in relation to that. I anticipate not, given that he lives with his partner and his partner is not of significant means. I can take some further instructions if your Honour requires.

**HER HONOUR:** I'm just - - -

**BYRNE, MS:** He is fitted with electronic monitoring, so they will know where he is at all times, but I accept that it's maybe a concern for the court.

**HER HONOUR:** And it was 5 April in the Commonwealth list? I ask my JSO to make sure it gets to the Commonwealth list.

**STYNES, MS:** Thank you, your Honour.

**BYRNE, MS:** Thank you, your Honour.

**HER HONOUR:** Look, Mr Jamshidi Doukoshkan, you are on very thin ice.

**ACCUSED:** Okay.

**HER HONOUR:** You will be back in custody if you keep breaching this curfew. And it's silly, because you are being monitored. The monitoring equipment is going to show

what time you leave and what time you get back. And six - for the sake of six minutes, you wait until six o'clock, all right? It's six - 10 pm until 6 am. And it - the Commonwealth is being very generous today, because quite frankly if they didn't consent to the release of you on bail, I wouldn't be bailing you. Okay. So your visa requirements are very strict, you know what they are, you do need to comply with them.

I'm adjourning your matter through to 5 April, Ms Byrne will need to speak to you and give you legal advice about those charges, and there's a \$5000 personal bail undertaking to sign. Yes, you will be subject to the electronic monitoring and all your visa requirements. But really, between now and 5 April, you cannot afford to come back before the court, all right. Once you have signed bail today you will be free to go. We will see you on 5 April. All right. Thank you both.

**STYNES, MS:** May it please the court.

AT 11.49 AM THE MATTER WAS ADJOURNED UNTIL  
FRIDAY, 5 APRIL 2024

VIQ Solutions are contracted by the Department of Justice to record and/or transcribe court and tribunal proceedings in Western Australia as specified under a government Contract. This Contract prescribes the recording and transcription production standards that must be adhered to.

The transcript of PE 10333/2024 Majid Jamshidi Doukoshkan heard on 20/2/24:

- Is a written reproduction of the audio record of the proceeding;
- Is a complete transcript except where otherwise stated. Any "indistinct" notations within the transcript refer to those parts of the recording that could not be accurately transcribed due to speech clarity, recording quality or other factors impacting word intelligibility.

Certified on 1/5/2024.