



GOVERNMENT HOUSE  
ADELAIDE

Our reference: 01/03/039

26<sup>th</sup> May 2009

Mr D P Jarrett  
(DCS No. 69405)  
Port Augusta Prison  
C/- PO Box 6  
PORT AUGUSTA SA 570

Dear Mr Jarrett

Further to Ms Penny Stratmann's letter dated the 17<sup>th</sup> February 2009, this office has now received further advice from the Attorney-General in relation to your petition for the prerogative of mercy.

His Excellency the Governor has considered this advice, and has requested that I convey the following to you:

*The prerogative of mercy is a power that is vested in the Governor as her Majesty's representative in South Australia. The power is exercised after advice is taken from Her Majesty's Ministers. In your case, therefore, I forwarded your petition to the Premier for the purpose of seeking his advice and that of the Ministers of the Crown if necessary. It is the usual practice that the Premier, in turn, seeks the advice of the Attorney-General and the Law Officers of the Crown in particular as petitions for mercy arise that have invariably been dealt with by the criminal justice system. This was done in your case.*

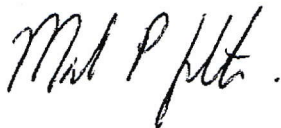
*Subsequently, I received the advice of the Attorney-General and the Law Officers on your petition through the Premier.*

*The Law Officers had given full consideration to each aspect of your petition and advised on the same. It required that they consider each complaint you have made against the evidence at your trial, the manner in which the trial was conducted, and the verdict. The conclusion was that your complaints did not give rise to an apprehension that a miscarriage of justice had occurred. Essentially the issues you have raised were either before the jury or were not such as could reasonably be expected to affect the verdict.*

*The advice of the Law officers was accepted by the Attorney-General and the Premier, who in turn advised me that it was appropriate to dismiss your petition. I accept that advice and, accordingly, decline to exercise the prerogative of mercy in your case.*

I trust this brings this matter to a conclusion for you Mr Jarrett.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Mark P. Horton'.

Mark Horton

ACTING OFFICIAL SECRETARY (Until 9<sup>th</sup> June 2009)

26-MAY 2009

01/03/039



GOVERNMENT HOUSE  
ADELAIDE

Our Reference: 01/03/039

Friday 15<sup>th</sup> April 2011

Mr D P Jarrett  
(DCS No: 69405)  
Port Augusta Prison  
C/- PO Box 6  
PORT AUGUSTA SA 5700

Dear Mr Jarrett

I refer to my letter of the 25<sup>th</sup> January 2011 in response to your petition dated the 18<sup>th</sup> January 2011, and advise that His Excellency the Governor has now received advice from the Attorney-General. That advice is as follows:

- *As previously advised, each aspect of Mr Jarrett's petition of 20<sup>th</sup> April 2008 was given full consideration and advice was provided. The complaints made were considered against the evidence at the trial, the manner in which the trial was conducted and the verdict. It was concluded that Mr Jarrett's complaints did not give rise to an apprehension that a miscarriage of justice had occurred. Essentially, the issues raised were either before the jury or were not such as could reasonably be expected to affect the verdict.*
- *Mr Jarrett's letter of 18<sup>th</sup> January 2011 seeking reconsideration of his petition does not advance matters any further and in particular, does not provide any basis for concluding that a miscarriage of justice has occurred.*

The Governor accepts the advice, and accordingly declines to exercise the prerogative of mercy in this case. Moreover, the matter will not be referred to the Court of Criminal Appeal pursuant to section 369 of the *Criminal Law Consolidation Act 1935*.

Yours sincerely

Ms Penny Stratmann  
OFFICIAL SECRETARY TO THE GOVERNOR



(8) After consideration in private of any such application or applications the Full Court may, without hearing oral argument, make all or any of the following orders in relation to each application:

- (a) an order granting or refusing the application;
- (b) an order that the application be listed for oral argument;
- (c) any other order or direction which may seem proper to the Full Court in the circumstances.

**[16,085] Notifying results of appeals**

16 On the final determination of any appeal, application for leave to appeal or application for extension of time within which to appeal, the Registrar shall give notice by Form No 10 or Form No 11 of such determination to the Trial Judge, the appellant and to such other persons as the Registrar considers appropriate.

**[16,090] Notice by registrar of orders and directions**

17 Except where otherwise provided in these Rules notice of any order or directions made upon any application or otherwise shall be given by the Registrar to all parties.

**[16,095] Certificates of conviction**

18 (1) The Clerk of Arraignment or Associate shall not issue a certificate of the conviction of any person for a period of 21 days after the conviction and sentence.

(2) When application for a certificate of conviction is made to the Clerk of Arraignment or Associate, such certificate shall not be issued if there is an appeal or application for leave to appeal against such conviction or sentence then pending.

(3) Subject to subrule 1 the Clerk of Arraignment or Associate shall supply such certificate in all cases where no appeal or application for leave to appeal against such conviction or sentence is pending.

**[16,100] References on petitions for mercy**

19 (1) When the Attorney-General exercises the power under section 369(a) of the Act and refers the whole case to the Full Court, the petitioner whose case is so dealt with shall be deemed for all purposes of these Rules to be a person who has obtained from the Full Court leave to appeal and the Full Court shall proceed to deal with the case accordingly.

(2) Where the Attorney-General refers a point to the Judges of the Supreme Court under section 369(b) of the Act, such reference shall be dealt with in such manner as may be directed by the Chief Justice.

(3) In the exercise of his powers pursuant to subrule (2), the Chief Justice may direct that the point be considered by a Full Court and in such other manner as the Chief Justice may direct.

**[16,105] Failure of appellant to attend hearing of appeal**

20 In the event of an appellant not being present at any hearing of the appeal by reason of the appellant's escape from custody or failure to appear in accordance with the conditions of a bail agreement entered into by the appellant, the Full Court may summarily dismiss the appeal, consider it in the appellant's absence or make such other order as may seem proper in the circumstances.

**[16,110] Miscellaneous**

**21** The Full Court and any Judge of the Supreme Court shall have power to make at any time and on such terms as the Full Court or such Judge may think fit, any order or direction dispensing with compliance with these Rules, giving leave to amend or giving any other order or direction of the kind referred to in Rule 3.04 of the Supreme Court Rules 1987 as though that Rule was incorporated in these Rules and as though the said Rule 3.04 applied, mutatis mutandis to proceedings to which these Rules apply.

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