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TRANSCRIPT OF PROCEEDINGS

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MAGISTRATES COURT

B. CALLAGHAN, Magistrate

MAG-164799/15

POLICE

Complainant

and

AMBER LAURA HEARD

Defendant

SOUTHPORT

2.30 PM, MONDAY, 18 APRIL 2016

DECISION

Any Rulings that may be included in this transcript, may be extracted and subject to revision by the Presiding Judge.

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

BENCH: Okay. Just before we start, I think how I dealt with the exhibits is probably not correct. So what I might do – Mr Kirk, do you wish to read and file the affidavit of Ms Heard, so that that - - -

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MR KIRK: Yes.

BENCH: - - - can become a document of the court?

10 MR KIRK: I do, your Honour.

BENCH: That then would leave the USB sticker as exhibit - - -

UNIDENTIFIED SPEAKER: It's 1.

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BENCH: - - - 1, or is – that was 2, wasn't it?

UNIDENTIFIED SPEAKER: It was 1.

20 BENCH: What was – it was 1, and the references, exhibit 2, and the rest of the documents would be documents of the Court.

MR CALLAGHAN: Thank you, your Honour.

25 BENCH: Am I correct?

MR CALLAGHAN: I have no issue with that.

30 BENCH: Yes. That's how we'll divide it up. So that the rest of the documents just become the documents of the court.

MR CALLAGHAN: Yes.

MR KIRK: [indistinct]

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BENCH: Okay. All right. Okay. First of all, Ms Heard, normally, I would deal with this with you standing, but I've got a bit to say. So please be seated. I intend to deal with this through – pursuant to section 19B of the Crimes Act, but I – I need to put some words on – some words on tape. Okay.

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45 So first of all, Ms Heard has pleaded guilty to producing a document to the Australian Customs that was false. On the 28th of August 2014, both dogs were issued with certificates of vaccination for rabies by a Dr Hebbert from the animal hospital in the USA. On the 28th of October 2014, both dogs were examined at the same animal hospital, concerning the follow-up testing for travel, and that was travel to Australia. On the 26th of November 2014, declarations were issued for both dogs indicating rabies vaccinations were current.

On the 21st of April 2015, a private plane arrived at the Brisbane Airport and was met by quarantine and customs officers. Ms Heard was on board that plane, as were the dogs. Ms Heard completed an incoming passenger card, and in response to the question on that card:

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Are you bringing into Australia animals, parts of animals, etcetera?

Ms Heard answered no. That answer was false. It is acknowledged that Ms – Ms Heard was – has routinely complied with customs and quarantine requirements for travel around the world when travelling with her dogs, and this is – there has been, on some occasions – this has, on some occasions, required her to change travel plans when those requirements have not been met in time.

On the 12th of May 2015, the principal vet officer for the – veterinary officer for the Department of Agriculture was contacted by a person who identified himself as an employee of Ms Heard’s husband. He had been instructed to contact the department following issues raised in the media with regards to the dogs’ presence in Australia. The media coverage alerted Ms Heard and her husband to the potential issues regarding documentation relating to the dogs.

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The department were provided with veterinary records for both dogs and were advised the dogs were available for inspections. The dogs had been isolated and had not been in contact with any other animals. On the 13th of May 2015, the principal veterinary officer attended an address, where he examined the two dogs and confirmed that each dog microchip matched their veterinary records. The dogs were healthy, showing no signs of illness or disease.

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There were no permits issued by the Director of Quarantine allowing the importation of those dogs into Australia. On the 13th of May 2015, both dogs were ordered into quarantine, and a direction was issued where they’d be re-exported within 72 hours. On the 15th of May 2015, both dogs were taken from Australia.

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On the 13th of October 2015, Ms Heard provided an unsworn statement to the Prosecution regarding her actions and state of mind relevant to the offence, and on the 3rd of November 2015, there was an indication that she would plea to the charge that she made the false statement, on the basis that the other two charges were discontinued. That has, in effect, occurred today, and it is clearly a timely plea.

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There have been a number of references placed before the Court, and I won’t go into them, but, clearly, all of them speak of Ms Heard’s generosity, commitment and kindness, and these indicate that she is just not another celebrity on the charity bandwagon, if I – if I can be – if I could put it that way. She is clearly a good person, and these people speak highly of her. She has been involved in many charitable causes in a very active way and has been so for a very long time, certainly since her teens, and I do take that into account.

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5 Of the facts relating to this matter, at the time of Ms Heard's departure for Australia in April 2015, Ms Heard was unaware the documentation for the dogs' importation into Australia had not been complete. She relied on staff to organise that, along with other travel arrangements. Just prior to Ms Heard leaving for Australia, her assistant, one of the staff responsible for that documentation, had been dismissed from her employment in acrimonious circumstances. There were difficulties associated with this, and that had repercussions on the preparation of the documentation concerning the importation of the dogs.

10 Further to this, Ms Heard had a belief that, at the time of arriving – that the form she filled out did not cover her pets. She believed that the relevant paperwork had been completed for the dogs and provided to the Australian authorities separately. I accept that she did not set out to deliberately deceive the Australian authorities. I also accept that it's not a question of a person believing she's above the law.

15 In her pleading guilty, she accepts her responsibility for the offence. Her actions indicate she is truly remorseful for incorrectly filling out that form. It has been submitted by Mr Kirk that this ought to be dealt with pursuant to section 19B of the Crimes Act, and as I indicated at the very outset – that that is how I intended to deal with it. That involves a two-stage step.

20 First of all, I say at the outset this is not a trivial offence. Ms Heard comes before the Court without any criminal history. References provided speak of her generosity and kindness, as I've already spoken about. She's employed as an actor, and this requires a great deal of international travel. Sometimes she travels with her dogs, sometimes not. She's always complied with the various rules and regulations concerning such travel. No doubt a conviction being recorded will have an effect on her ability to travel.

25 The third factor concerning whether or not – whether or not I ought to consider dealing with this pursuant to section 19B is the extent to which the offence was committed under extenuating circumstances. The Defence submits that the extenuating circumstances under which this offence was committed included her belief that she was not required to declare the dogs, and this belief was based on her previous experience in travelling with her dogs, and also her belief that her staff had dealt with all of the documentation required for the dogs.

30 Given the amount of travel that Ms Heard is required to do, and her reliance on staff, that is not unsurprising. I do accept that those – that these – that this offence was committed under extenuating circumstances. I've quite deliberately not drawn reference to the fact that she was tired, because people travelling in and out of Australia are tired. It's a long way. We're a long way from anywhere, except New Zealand.

35 I find that, given Ms Heard's character and antecedents and the fact that this offence was committed under extenuating circumstances, that I ought to consider whether or not it would be inexpedient to inflict any punishment, or any punishment other than a

nominal punishment, on Ms Heard. In considering this, all of section 16A of the Crimes Act comes into play.

5 I've had regard to all of the circumstances of this case. There's genuine remorse and a high – a high degree of cooperation. Ms Heard has returned to this country to have this matter dealt with, and her and her husband have provided a video with regards to not making a false declaration. This video no doubt will be quite useful for the department.

10 A conviction being recorded will have a very real effect on Ms Heard's ability to travel for her work. The cases cited from the Prosecution, where it's desirable that countries be aware of convictions being recorded are not relevant in this case. Ms Heard has never before deliberately flouted the laws of any country regarding the importation of her pets, and these were extenuating circumstances, as I have said.

15 I have no doubt that this whole matter has had a real impact upon Ms Heard, and given the level of public scrutiny both she and her husband have been subjected to, I find that personal deterrence is not a factor that I really have to give consideration to, because there's no doubt in my mind that this won't happen again.

20 With regards to the general deterrence, I think, quite frankly, the department's better off using that video that have been provided by Mr Depp and Ms Heard with regards to not making a false declaration and the real impact that it could have on this country. That's of far more benefit to this country than anything else that I may do
25 with regards to recording a conviction on Ms Heard. So, therefore, I'll be dealing with it, as I said, pursuant to 19B of the Crimes Act.

BENCH: Yes, Mr - - -

30 MR CALLAGHAN: Does your Honour require any assistance with the order? There is a pro forma, if that's of any use to you.

BENCH: Absolutely. Be of use to my assistant.

35 MR CALLAGHAN: Thank you.

BENCH: Thank you. Thank you. Okay. Stand up, please, Ms Heard. Pursuant to section 19B(1)(d), the charge against you is proven. However, by order, I release
40 you without proceeding to conviction, upon you giving security by recognisance in the sum of \$1000, conditional that you be of good behaviour for a period of one month.

45 The – the purpose and the effect of the order is that you must be of good behaviour for one month and not commit any further offences, and if you do, you could be called upon to pay the \$1000. There is no conviction recorded. So what I'm going to do is ask for the courtroom to be cleared. Ms Heard, if you can remain, please, my – my assistant will deal with the – with the paperwork, and that will be dealt with

very shortly. So if the – if the courtroom could please – if everybody can clear the courtroom, so that it can be dealt with, and I – please adjourn the Court.

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