



# FOLEY'S | LIST

Foley's List First Year

Witness Examination Competition 2017

Grand-Final

***R v Tsakmakis (2017)***

## **R v Tsakmakis**

**The defendant Christos Tsakmakis is charged with armed robbery, the particulars being that on Wednesday 1<sup>st</sup> March he entered the State Bank of Victoria, demanded money, and threatened the staff with an imitation firearm, contrary to s.75A Crimes Act 1958 (Vic).**

### **s.75 Crimes Act 1958 - Robbery**

(1) A person is guilty of robbery if he steals or attempts to steal, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear that he or another person will be then and there subjected to force.

### **s.75A Crimes Act 1958 - Armed Robbery**

(1) A person is guilty of armed robbery if he commits any robbery and at the time has with him a firearm, imitation firearm, offensive weapon, explosive or imitation explosive within the meaning assigned to those terms for the purposes of section 77(1).

(2) A person guilty of armed robbery is guilty of an indictable offence and liable to level 2 imprisonment (25 years maximum).

### **Additional information**

On Tuesday 7<sup>th</sup> March, Tsakmakis was arrested and interviewed by the police. He made a short pre-prepared statement in which he admitted being in the bank but denied being involved in the robbery. He refused to answer all questions that were put to him by the police.

## **Statement of: Elisabeth Forsyth**

### **Witness for the Prosecution**

Occupation: Bank Cashier

Date of statement: Monday 6<sup>th</sup> March 2017

- 1.) I am 62 years old and have been employed by the State Bank of Victoria in various roles for the past 40 years. During most of that time I have been a cashier at various branches across Melbourne. I have worked in busy city centre that serve a high volume of customers, and in quieter branches out in the suburbs in which you have an opportunity to get to know the customers a little better.
- 2.) On Wednesday 1<sup>st</sup> March 2017, I was working in the Collins Street branch of the Bank. The branch is one of the Bank's busiest. It is in the CBD and so we get a lot of commercial customers who deposit takings and come in to get petty cash.
- 3.) We opened for business as 9.30am and had a steady stream of customers all morning. I do not recall a moment when I had fewer than 10 or 15 customers waiting in line for counter service.
- 4.) This was the case at around 11am. I was serving an elderly man who wanted some foreign currency for a trip to Europe. This transaction took some time and while I was waiting for the customer to decide how much money he wanted to change, I glanced over his shoulder to see who the next few people in the line were. Although I did not pay too much attention to him, I noticed that the next customer was a man in his mid-thirties, quite handsome, clean shaven and tanned. He was dressed in smart dark clothing. Well groomed, I would say. I remember thinking that he looked vaguely familiar.
- 5.) I should explain the layout of the customer banking area. As I sit at the cashiers' position, facing the banking area, the entrance to the bank is off to the right about 20 metres away. Customers who come into the bank enter an L-shaped queuing system. The area is open-plan but there are a few pillars here and there. The queue is initially parallel to the cashiers' desks, and then turns left so that customers are facing the cashiers before they are called forward by the next available cashier.
- 6.) I eventually finished serving the elderly man. I was putting the cash he gave me in my cash draw. As I was doing this I was aware that the next person in the line had approached the desk. As I looked up I saw that the person was around 3 feet from the counter pointing what appeared to be a shotgun at me. It had two

cylindrical barrels. The outside of these were a dull metallic colour and had a few patches of rust. The barrels were about 12 inches long. The ends were quite shiny like they would be if they had been recently cut. The handle of the gun was wooden. Like the barrels. This was in quite bad condition. There were paint stains on it and it had big chunks of wood missing from it.

- 7.) As I looked up, the man said 'Give me the fucking money before I blow your fucking head off'. This is not the first time that I've been confronted by someone pointing a gun at me. It's happened perhaps 5 or 6 times during the time that I've been working for the bank. It's still terrifying though. Time seemed to stand still. I reached for the button that raises the security screen. The screen is solid – you cannot see through it. Normally the screen is housed inside the counter and is not visible. When the button is pressed to activate it, it rises very quickly up to the ceiling – so quickly that a person holding a gun would not have time to react and fire the gun before it shields us.
- 8.) Before the screen deployed I got a very quick look at the gunman's face, which became imprinted on my mind.
- 9.) We watched what was happening in the banking area on CCTV monitors that are located behind the cashiers' desk. I saw on the monitor that the man who had pointed the gun at me was on the floor. He got up and ran out of the bank. He was running behind a man who was wearing a long overcoat who I assume was another customer trying to get out of harm's way.
- 10.) Over the next few days, I tried to think about why the gunman seemed familiar. I eventually recalled that I had seen him in the branch two days previously. He came in just before we closed. I looked through the electronic record of transactions around that time, and made a list of the customers' names.
- 11.) I later explained to my daughter what had happened and she suggested that we have a look on Facebook to see whether we could find photos of the customers on my list. She came around to my house on the evening of Saturday 4<sup>th</sup> March and we spent a few hours searching Facebook. We got to the second last name on the list, a Christos Tsakmakis.
- 12.) There were many people with this name. Most of the seemed to be living in Greece. We narrowed the search by typing Melbourne in the search box and it came up with only one person. We clicked on the image and it took us to his page. He had posted numerous photographs of himself.
- 13.) We scrolled down the page and saw several photographs of him. It was in no doubt that this was the man who had pointed the gun at me in the bank. He

seemed to have a very lavish lifestyle. I remember one photograph, in which he was sitting on the bonnet of a red sports car holding a handgun – the kind that gangsters use. I remember my daughter saying that he looked like a gang member with his flashy jewellery and watch.

- 14.) The next day I rang the police and told them that I had identified the robber.

## **Statement of: Jim Shaw**

### **Witness for the Defence**

Occupation: Retired Private Investigator

Date of statement: Wednesday 1st March 2017

- 1.) I am 67 years old and retired in 2015 having worked briefly as a police officer before setting up my own investigation consultancy in which I worked for over 30 years. My work over that time was varied, but consisted mainly of investigating fraudulent transactions to help people recover money they had lost and trying to find missing persons. I also did a fair amount of surveillance work for people who suspected their partners of having affairs.
- 2.) On Wednesday 1<sup>st</sup> March 2017, I caught the 9.10am train from Malvern to Flinders Street station. I was planning to do some shopping, pay some bills and have lunch in town before catching the train back home sometime in the afternoon.
- 3.) After visiting a few shops, I went to the Collins Street branch of the State Bank of Victoria with the intention of paying my bills. I know that most people do this via the internet, but my investigatory experience led me to distrust the systems that banks have put in place in an attempt to make online payments secure.
- 4.) I probably arrived at the bank at around 10.30am and found that it was relatively busy. There was a queue of around 15 people who were waiting for the cashiers. I thought at this point about leaving it for another day, but as I had some time to kill before lunch I decided to join the end of the queue and get the bills paid. I had a newspaper, which I read as I stood in line.
- 5.) After around 20 mins I was getting near to the front of the queue. There were perhaps 5 or 6 people in front of me. I had just reached the point at which the line turns left to face the cashiers' desks. I did not pay too much attention to the people in the line in front of me at this stage. However, I did notice that one of those in front of me didn't appear to be dressed for the weather – it was a fairly warm late summer day. I was dressed in shirt sleeves. This man had on a long overcoat. It went almost down to his ankles and the sleeves looked too long for his arms. It was dark in colour, either navy blue or black. I remember thinking that he must have been far too warm. I was probably right because I noticed that he was very unsettled, and kept having to mop sweat

from his brow. He was rather unkempt, he had long hair that was matted in places. He looked like he's been sleeping rough.

- 6.) The people who were being served at this point seemed to be involved in transactions that were taking a long time to complete. I remember seeing an elderly man who was trying to exchange some currency. He was getting rather confused and my attention was drawn to him because the cashier seemed to be getting quite impatient. She was doing what people tend to do when they're having trouble communicating with elderly people – speaking in a very loud voice with an impatient tone.
- 7.) The elderly man eventually finished his transaction and stepped to one side of the cashier. The cashier was putting the money that had been exchanged for foreign currency in her cash drawer. She seemed to be having some trouble getting it in the drawer and the next person in the line started to step forward towards the cashier's desk.
- 8.) As the cashier closed the cash drawer, the man in the long trench coat surged forward. When he did this, he knocked a clean-cut and well-dressed man who was wearing a navy-blue business suit out of the way. The man in the suit fell to the ground. As he pushed past the man in the suit, the man in the trenchcoat seemed to be reaching inside the coat for something. I didn't get a good view of what was happening as at this point I was standing directly behind the man in the trenchcoat.
- 9.) I heard someone shout 'Give me the fucking money'. Almost as he shouted this, the security screen at the cashiers' desk was activated. It shot up to the ceiling. I heard someone shout 'You fucker!'. I think this must have been the man in the trenchcoat as the elderly man was now facing me and looking at the man in the trenchcoat. He wasn't saying anything. The man in the suit was still on the ground and was looking up at the man in the trenchcoat.
- 10.) The man in the trenchcoat turned to his right and started running towards the door. By this point the man in the suit had got to his feet. He didn't seem afraid. Quite the opposite. He was pretty angry. He said 'Bastard' and then ran after the man in the trenchcoat.
- 11.) Both men disappeared out of the door and I didn't see either of them again. I turned back towards the cashiers' counter. As I did so I noticed what appeared to be a sawn-off shotgun lying on the floor right close to where the counter meets the floor. It looked in pretty poor condition. I had a closer look and noticed that it was in fact a poor imitation. It consisted of two lengths of metal

tube taped together with yellow electrical tape. The tubes were embedded in a block of wood that vaguely resembled the butt of a rifle.

12.) I waited for the police to arrive so that I could provide a statement.