



Government of South Australia

Director of Public Prosecutions

MEDIA STATEMENT

Wednesday 27 July 2011

ROCCO LEO

This is a case that has attracted a fair amount of publicity and has been the subject of remarks by many.

It has caused some with very little understanding of the strength of the evidence in this case to criticise this Office for tardiness or for taking too much time in which to reach a decision.

I wish to dispel any suggestion of that nature and assure the people of SA that this Office has dealt with this case in a fully professional and a very timely fashion.

The timeline of this case in respect of our dealings with it begins on 9 May 2011. On that day, a routine adjudication request was received from SAPOL supported by effectively two witness statements.

An adjudication request is a request for an advice or an opinion on what the appropriate charges would be if the allegations made are able to be proven.

It comes typically at the beginning of a police investigation and is usually requested long before the evidence gathering is complete and before the case takes on its final shape.

In effect an adjudication asks us to assume that the allegations that may be contained in perhaps one or two statements only, are provable and if they are, to advise on the appropriate charges.

An adjudication is not a decision to prosecute the case nor is it an expression of opinion as to the strength of the case or whether the case has reasonable prospects of a conviction.

It is certainly not an expression of our opinion as to whether an extradition would be justified.

When we received a request to adjudicate on 9 May, we had the two statements. Those who practice in the criminal law and particularly those who practice in fraud cases, know that two statements do not constitute a brief.

When allegations are made as to where money went and why, there are pivotal issues of credibility and of forensic accounting to be addressed. We need clear evidence tracing money into accounts and tracing money out of accounts.

Those who work in fraud cases know that evidence of this nature is the bare minimum required to prepare and eventually to prosecute fraud. You have to have credible witnesses on the issue of misrepresentation and then a good paper trail to prove where the money flow started and ended.

From what I have already said, it is obvious that we had nothing like that in May.

In any case, we gave our adjudication as to possible charges and made it very clear that any final assessment had to be reviewed after proofing the witnesses and receiving financial evidence.

On 14 July, one day after my media release saying that we did not have a brief to advise upon, we were delivered a folder of material by investigators. This consisted mainly of the same statements that we had already been sent together with some additional materials relating to the bank records for one aspect of the case.

We did not have financial evidence in relation to the suspect, his so called church or any material that indicated the disposition of funds from the accounts of Agape Ministries International (AMI). Still, we examined that material and on 15 July advised SAPOL that the evidence provided did not support a case where it could be said that there were reasonable prospects of getting a conviction.

We recommended that further investigations be undertaken.

On 18 July, a further 5 folders of papers were delivered to us by SAPOL for us to look at. This was about 200-300 pages of material.

On the next day, 19th July, prosecutors conducted a 2 1/2 hour proofing or interview of one of the principal witnesses in the case and as we do always, formed a view as to his truthfulness and reliability.

On the next day, 20th July, SAPOL provided us further information and material.

On the 21st, we conducted a proofing with another pivotal witness and met with and discussed the evidence with forensic accountants from SAPOL.

On the 22 July, we advised SAPOL that we required clarification in six key areas of evidence.

We received a reply yesterday, on 26 July.

Since then we have considered SAPOL's reply and provided them with a comprehensive and detailed advice informing them that in our view, there are no reasonable prospects of a conviction and consequently we can give no assurance that we would prosecute Mr Leo on these matters should he be the subject of a successful extradition application.

You will see from this timeline that the State's prosecutors have acted quickly and professionally and suggestions by those who know nothing of the case are, as I have previously said, ill informed.

Stephen Pallaras QC

Director of Public Prosecutions