DPP

Commonwealth Director of Public Prosecutions

5 July 1999

MEDIA STATEMENT

Prosecution of Mr Malcolm Colston

On 18 May 1998 Malcolm Arthur Colston was committed to the Supreme Court of the Australian Capital Territory to stand trial on 28 charges of defrauding the Commonwealth pursuant to section 29D of the Crimes Act 1914.

On 7 April 1999 Mr Colston's solicitors submitted to the DPP that the charges against Mr Colston should not proceed on the basis of his ill health. Medical reports from a number of senior specialists addressing Mr Colston's condition were provided. The DPP requested Mr Colston be independently examined to assist the Acting Director to assess the submission made on behalf of the Senator. On 3 May 1999 Mr Colston's counsel stated in the Supreme Court that he had agreed to be examined. Subsequently Mr Colston has been separately examined by two eminent medical specialists and reports have been provided to the DPP.

The independent reports confirm Mr Colston's medical condition and the assessments provided to the DPP on his behalf. It is the assessment of all the specialists that Mr Colston has a terminal illness and his condition is such that he is unfit to stand trial and there is no prospect that he will be fit to stand trial in the future.

The Prosecution Policy of the Commonwealth sets out factors which may arise in determining whether the DPP should decline to proceed further in a prosecution. These include the health of the alleged offender and the seriousness of the alleged offences. The Acting Director has considered this matter in accordance with this policy.

In the light of the medical evidence there is no prospect of this matter being able to proceed to trial and the Acting Director has decided that the charges are to be discontinued.

On 5 July 1999 the DPP presented a Notice Declining to Proceed Further on the charges to the Supreme Court.

During the course of this prosecution a number of public allegations have been made concerning the integrity of the DPP and its officers. The DPP totally rejects these baseless allegations. This matter has at all times been properly dealt with in accordance with the Prosecution Policy of the Commonwealth.

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