

RECENT DEVELOPMENTS

James Foley, 'Limits of advocates' immunity confirmed.'

between the principle of the scope of advocates' immunity stated in *Attwells* (citing the remarks of McCarthy P in *Rees v Sinclair*¹²), and the principle as articulated by the High Court in *Giannarelli*. The High Court found that any such distinction was 'illusory' and 'artificial'.¹³

Endnotes

1 [2017] HCA 13 (29 March 2017).

2 (2013) ANZ ConvR 13-001; [2012] NSWCA 433.

3 *Kendirjian v Lepore* [2015] NSWCA 132 at [27]-[28].

4 (2016) 90 ALJR 572; 331 ALR 1; [2016] HCA 16.

5 *D'Orta-Ekenaike v Victoria Legal Aid* (2005) 223 CLR 1; [2005] HCA 12.

6 *Giannarelli v Wraith* (1988) 165 CLR 543.

7 *Id* at 560.

8 *See at* [52], [59] *per French CJ, Kiefel, Bell, Gageler and Keane JJ*.

9 *See at* [5] *per French CJ, Kiefel, Bell, Gageler and Keane JJ*.

10 *Edelman J, with whom Kiefel CJ, Bell, Gageler and Keane JJ agreed*.

11 *At* [34] *per Edelman J*.

12 [2005] HCA 12; (2005) 223 CLR 1 at 25-26 [61]-[64].

13 *At* [38]-[39] *per Edelman J, with Nettle and Gordon JJ also agreed as to this aspect*.

VERBATIM

In June 2017 Martin Shkreli stood trial in the United States on charges relating to securities and wire fraud. Mr Shkreli became very well known in the States in recent years while he was chief executive officer of a pharmaceutical company at a time when the company drastically increased the price of various drugs, making them unaffordable for many. A recent issue of *Harper's Magazine* included the transcript of the jury selection process at the outset of Mr Shkreli's trial, during which the Court ended up excusing more than two hundred potential jurors. Benjamin Brafman is Mr Shkreli's attorney. In case anyone is not familiar with the Wu-Tang Clan, it is a well known hip hop group from New York. Now read on ...

THE COURT: Juror Number 144, tell us what you have heard.

JUROR NO. 144: I heard through the news of how the defendant changed the price of a pill by up-selling it. I heard he bought an album from the Wu-Tang Clan for a million dollars.

THE COURT: The question is, have you heard anything that would affect your ability to decide this case with an open mind. Can you do that?

JUROR NO. 144: I don't think I can because he kind of looks like a dick.

THE COURT: You are Juror Number 144 and we will excuse you. Come forward, Juror Number 155.

JUROR NO. 155: I have read a lot of articles about the case. I think he is as guilty as they come.

THE COURT: Then I will excuse you from this case. Juror Number 10, please come forward.

JUROR NO. 10: The only thing I'd be impartial about is what prison this guy goes to.

THE COURT: Okay. We will excuse you. Juror 28, do you need to be heard?

JUROR NO. 28: I don't like this person at all. I just can't understand why he would be so stupid as to take an antibiotic which H.I.V. people need and jack it up five thousand percent. I would honestly, like, seriously like to go over there —

THE COURT: Sir, thank you.

JUROR NO. 28: Is he stupid or greedy? I can't understand.

THE COURT: We will excuse you. Juror 41, are you coming up?

JUROR NO. 41: I was looking yesterday in the newspaper and I saw the defendant. There was something about him. I can't be fair. There was something that didn't look right.

THE COURT: All right. I'm going to excuse you. Juror Number 59, come on up.

JUROR NO. 59: Your Honor, totally he is guilty and in no way can I let him slide out of anything because —

THE COURT: Okay. Is that your attitude toward anyone charged with a crime who has not been proven guilty?

JUROR NO. 59: It's my attitude toward his entire demeanor, what he has done to people.

THE COURT: All right. We are going to excuse you, sir.

JUROR NO. 59: And he disrespected the Wu-Tang Clan.