

IN THE HIGH COURT OF AUSTRALIA  
BRISBANE REGISTRY

No. B33 of 2016

BETWEEN:

THE QUEEN  
Appellant

and

GERARD ROBERT BADEN-CLAY  
Respondent

10



APPELLANT'S CHRONOLOGY

**Part I:**

We certify that this chronology is in a form suitable for publication on the internet.

**Part II:**

20

	Date and Time	Event	Appeal Book Reference
	23 August 1997	The deceased, Allison June Baden-Clay (DOB: 1 July 1968) and the respondent, Gerard Robert Baden-Clay (DOB: 9 September 1970) were married.	
	August 2008	Respondent commenced an extra marital affair with Toni McHugh, a sales employee at the respondent's real estate business.	Transcript (Tx) 5.62-5.63
30	September 2011	Deceased found out about the affair and following a confrontation with the respondent, the respondent ended the relationship with Ms McHugh and she left the employment.	Tx 5.67-5.68
	Prior to Christmas December 2011	Respondent contacted Ms McHugh and arranged a café meeting.  At that meeting, the respondent told her he was going to leave his wife. He said to Ms McHugh he loved her, that he wanted to come to her unconditionally and be out of the marriage.	Tx 5.69  Tx 5.69
40		The affair resumed.	Tx 5.70
	Early March 2012	Respondent sought a loan of \$300,000 from Dr Bruce Flegg.  Ms Heath said the respondent was quite distressed. He said if he didn't get it, then he would go broke or bankrupt.	Tx 8.49  Tx 8.48-8.49

Chronology filed on 10/06/2016 on behalf of the appellant

		The loan was not provided.	Tx 10.8
	March 2012	Meeting between respondent and Ms McHugh at a coffee shop. The respondent said to Ms McHugh that he would be leaving his wife and would be out of his marriage by 1 July.	Tx 5.70-5.71
10	3 April 2012	The respondent (using an email address in a false name of bruceoverland) sent an email to Ms McHugh which stated:  "I have given you a commitment and I intend to stick to it - I will be separated by 1 July".	Ex 63
	11 April 2012 9.12pm	The respondent (using the bruceoverland email) sent an email to Ms McHugh which stated:  "This is agony for me too. I love you. I'm sorry you hung up on me. It sounded like you were getting very angry. I love you GG. Leave things to me now. I love you. GM".  (The reference to GG was gorgeous girl and GM was gorgeous man.)	Ex 64  Tx 5.72
20	16 April 2012	Deceased and respondent attend a session with a counsellor at Relationships Australia. The counsellor discussed with the respondent that he had to listen to his wife's feelings around the affair every second night, for about 10 to 15 minutes.  Neither the deceased nor the counsellor knew that the affair had resumed.	Tx 6.48  Tx 6.41; Tx 6.45; Tx 6.49
30	As at 19 April 2012	The total value of the life insurance policies held for the respondent's wife was \$975,240.62	Ex 177; Ex 179 at p2 [para 21]
	19 April 2012 Late afternoon	In a telephone conversation the respondent told Ms McHugh that the deceased was to attend a property manager conference the following day, which Ms McHugh was also to attend.  Ms McHugh got angry and told him he needed to tell the deceased. She said it was not fair on either of them. She asked him when he was going to change things so they could be together and he told her he was thinking of selling the business.	Tx 5.75-5.76
40	19 April 2012 6.30pm - 7.00pm	The deceased and respondent put their 3 daughters (aged 10, 8 and 5) to bed.	Ex 38 at pp 6-7; Ex 40 at p4; Ex 42 at p8
	20 April 2012 1.48am	Respondent's mobile phone connected to charging device.	Ex 179 at p2 [para 17]
	20 April 2012 6.18am	Respondent's mobile phone removed from charging device.  Respondent rang deceased's mobile phone	Ex 179 at p2 [para 18]  Ex 172 at pp5-8

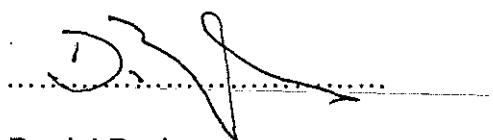
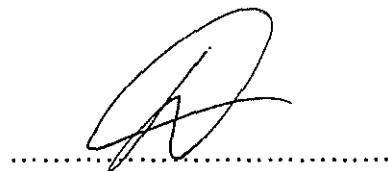
	several times and it went to message bank.	
10	20 April 2012 6.30am	Respondent rang his father and told him the deceased had not returned from her walk. His father went to the house.
	20 April 2012 6.41am	Respondent sent a text message to the deceased's mobile phone. It stated:  "AI, getting concerned. Where are you? The app doesn't say either? H and S now up. I'm dressed and about to make lunches. Please just text me back or call. Love G".
	20 April 2012 7.10am	Respondent left house for about half an hour to search for the deceased.
20	20 April 2012	Respondent asked by his sister, Olivia Walton, the routes the deceased took on walks. Ms Walton conducts search.
	20 April 2012 7.15am	Respondent telephoned police emergency number and reported his wife missing. He said he last saw her when he went to bed and she wasn't there that morning.
	20 April 2012 8.00am	First police arrive at the house.
30	20 April 2012 Morning	Respondent told his daughters, his father, police and the deceased's friends he thought she had gone on her usual early morning walk.
	20 April 2012 – 21 April 2012	Respondent had facial injuries to his right cheek. There were three broad irregular marks on the cheek. At the base of one of the marks were fine red linear marks.  The respondent told a number of people that he had cut himself shaving: - his father; - the deceased's mother; - various police officers; - two general practitioners he consulted; and - his daughters.
40	20 April 2012 – 21 April 2012	Respondent told police officers and the deceased's mother that he went to bed at about 10pm and his wife was on the couch watching "The Footy Show". He awoke just after 6am and his wife was not there.
	20 April 2012	Respondent told police the previous evening he submitted to questions about the affair as instructed by the counsellor.  The respondent and deceased discussed plans for the following day including arrangements for the children's sleepover.  There was no lingering animosity, no more than normal.
		Tx 3.46
		Ex 176; Ex 179 at p2 [para 19]
		Tx 3.48
		Tx 5.19
		Ex 66 at p2; Ex 179 at p1 [para 13]
		Tx 6.58
		Ex 38 at p9; Ex 40 at p6; Tx 3.46; Tx 6.62; Tx 2.81; Tx 5.50
		Ex 70, 93-95
		Tx 3.47; Tx 5.38; Tx 6.63; 6.78; Ex 87 at pp2 and 13; Ex 91 at pp5,8,33; Ex 162 at p4; Tx 7.19; Tx 8.3; Ex 38 at p12; Ex 40 at p13
		Tx 6-63; Ex 87 at pp8-9 and 14; Tx 5.37; Ex 92 at pp3-6; Ex 163 at pp2-3
		Tx 6.63; Ex 87 at pp15 and 23; Ex 92 at pp10, 20, and 25
		Ex 92 at p22
		Ex 92 at p23

	He denied the marriage was going to end.	Ex 92 at p26
10	20 April 2012 The respondent told police officers he had an affair that had ended last year.	Tx 6.63; Ex 87 at p7
20	20 April 2012 1.00pm Ms McHugh phoned the respondent. He told her that the deceased had gone missing.  He said to not communicate and "lay low".	Tx 5.76  Tx 5.77
30	21 April 2012 9.30am  Later when she was with police in an interview, he rang and asked her to "just answer yes or no. Have you told them that we're back together again?". She told him "yes". Nothing else was said.	Tx 5.77  Tx 5.77
40	22 April 2012 7.15pm  The respondent was examined by a Forensic Medical Officer, Dr Griffiths.  He said the facial injuries resembled scratch marks and it was "highly improbable" that a razor would cause the injury.	Tx 8.28  Tx 8.31
	Photographs of the facial injuries were examined by three other medical experts.  The opinions were in effect: - the broad irregular marks had the appearance of being caused by fingernails, not a razor; and - the smaller red linear marks appeared to be more recent and were more consistent with being caused by a razor.	Tx 8.10; Tx 8.13; Tx 7.12-7.13; Tx 7.10; Tx 8.53-8.54; Tx 8.61; Tx 8.65
	As at 29 April 2012 The assets and liabilities for the respondent and his wife was a net asset position of \$74,663.11.	Ex 178; Ex 179 at p3 [para 24]
	30 April 2012 The body of the deceased was found below the Kholo Creek Bridge on the bank of the creek.  The shortest route from the Baden-Clay residence to the Kholo Creek Bridge is 13 kilometers.	Tx 5.57  Tx 11.24
	1 May 2012 Respondent contacted Asteron Life Insurance to determine how a claim could be made on his wife's life insurance policy.	Ex 179 at p3 [para 23]
	1 May 2012 The post-mortem was conducted by Dr Milne, Forensic Pathologist. It was noted there was significant decomposition. It was consistent with death occurring 11 days previously.  Hypostasis indicated the body was in the position found within a matter of hours of death.  No definite injuries were noted.	Tx 2.14; Tx 2.18  Tx 2.19  Tx 2.20

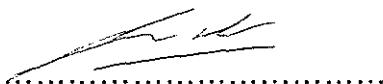
	Dr Milne concluded that the deceased did not die from natural causes but the cause of death was undetermined.	Tx 2.30
10	Other expert evidence indicated that the deceased did not die from a drug overdose, drowning, or a fall from the bridge.	Tx 10.54-10.55; Tx 10.58; Tx 2.29; Tx 10.46; Tx 8.67; Tx 10.67
	Six species of leaves were found on the body. All six species were present at the Baden-Clay residence and only two species were at the location of the creek.	Tx 2.10; Tx 2.16; Tx 10.78-10.86
15 May 2012	The Holden Captiva purchased by the Baden-Clay's on 25 February 2012 was scientifically examined. On the driver's side back wheel arch cowling, in front of the third row of seats, a transfer blood stain with a flow rivulet was found.  A swab was taken from the stain which matched the reference DNA profile of the deceased.	Tx 7.48; Ex 115-117; Ex 179 at p1 [para 14]  Tx 11.20

20

Dated this 10<sup>th</sup> day of June, 2016.



30           Walter Sofronoff QC  
                Senior Counsel for the Appellant           Daniel Boyle  
                Junior Counsel for the Appellant



40           Susan Hedge  
                Junior Counsel for the Appellant

Name: Daniel Boyle  
Telephone: (07) 3235 9233  
Facsimile: (07) 3006 8193  
Email: Daniel.Boyle@justice.qld.gov.au