



## HIGH COURT OF AUSTRALIA

8 May 2013

### ROSEANNE BECKETT v THE STATE OF NEW SOUTH WALES

[2013] HCA 17

Today the High Court unanimously allowed an appeal from a decision of the Court of Appeal of the Supreme Court of New South Wales, which had held that Ms Roseanne Beckett's claim for damages for malicious prosecution required proof of her innocence.

In September 1991, Ms Beckett was convicted of eight offences against her husband. In August 2005, the New South Wales Court of Criminal Appeal quashed the convictions on six of the counts. The Court entered a verdict of acquittal for one count, and ordered a new trial on the remaining counts. In September 2005, the Director of Public Prosecutions ("the Director") gave a direction, pursuant to s 7(2)(b) of the *Director of Public Prosecutions Act 1986* (NSW), that no further proceedings be taken against Ms Beckett on the outstanding counts.

In August 2008, Ms Beckett instituted proceedings against the respondent in the Supreme Court of New South Wales, claiming damages for malicious prosecution. Both parties agreed that the Court should answer separate questions regarding whether Ms Beckett needed to prove her innocence to maintain her claim for damages. The trial judge held that the Director's decision not to proceed further with the charges was equivalent to the entry of a *nolle prosequi* by the Attorney-General. He applied the High Court's decision in *Davis v Gell* (1924) 35 CLR 275, which held that where proceedings have been terminated by the entry of a *nolle prosequi*, as distinct from other forms of termination, a plaintiff must prove his or her innocence to succeed in a subsequent action for malicious prosecution. The Court of Appeal affirmed the trial judge's decision.

By special leave, Ms Beckett appealed to the High Court. The High Court unanimously allowed the appeal, holding that *Davis* should not be followed. The Court held that a plaintiff is not required to prove his or her innocence in an action for damages for malicious prosecution in any case in which the prosecution has terminated favourably to the plaintiff.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*