



Form 59
Rule 29.02(1)

Affidavit

NSD426 of 2021

Federal Court of Australia
District Registry: New South Wales
Division: General

Joanne Elizabeth Dyer

Applicant

Sue Chrysanthou SC

First Respondent

Charles Christian Porter

Second Respondent

Affidavit of: **Rebekah Ruth Giles**
Address: 111 Elizabeth Street, Sydney NSW 2000
Occupation: Solicitor
Date: 18 May 2021

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I, Rebekah Ruth Giles, say on oath:

Filed on behalf of (name & role of party) Charles Christian Porter, the Second Respondent
Prepared by (name of person/lawyer) Rebekah Giles
Law firm (if applicable) Company Giles
Tel 1300 204 602 Fax _____
Email admin@companygiles.com.au
Address for service 111 Elizabeth Street
(include state and postcode) Sydney NSW 2000

1. I am the Principal Director of Company Giles Pty Ltd and the solicitor on record for the Second Respondent (**Porter**).
2. This is an affidavit in support of Porter's Interlocutory Application filed 18 May 2021 seeking orders for discovery of the categories of documents described in the interlocutory application. Porter seeks dispensation from rule 20.13 of the *Federal Court Rules 2011*, having regard to the fact that this matter has been listed for an urgent hearing on 24-27 May 2021.
3. The facts I depose to in this affidavit are true based on my knowledge. Where statements are not made from my own knowledge, I depose to the subject matter of those statements to the best of my information and belief after making reasonable enquiries, and on the basis of the sources of information set out in this affidavit. Where I depose that a conversation occurred, I do so with words that have the effect of that conversation.
4. Exhibited to this affidavit is a bundle of documents marked "**RG-1**" (**Exhibit**). References to the Exhibit followed by a page number are references to that exhibit and page number within the Exhibit.
5. I have only seen the redacted version of the Concise Statement and the redacted versions of the evidence relied upon by the Applicant (**Dyer**). However, it is apparent to me from a review of those documents is that an issue in this case is whether what was said in the conference pleaded at paragraph 8 of the Concise Statement that took place on 20 November 2020 was and remains confidential.
6. I am aware that Dyer has publicly discussed the allegations said to have been made by AB against Porter and has publicly interacted with the ABC and Milligan. I give some examples of these below.
7. On 9 November 2020 4Corners, Dyer was interviewed by the ABC. She stated in relation to Porter, "*He had that assuredness that's perhaps born of privilege....had an air of entitlement around him that I think was born of the privilege from which he came*". A copy of the transcript of that interview is at pages 9-27 of the Exhibit.
8. On 15 November 2020, Dyer published a tweet on Twitter using the twitter handle @instanterudite, "*Why will no-one will discuss the clear inconsistencies in Porter's statement and that of many witnesses to his alleged behaviour in the Public Bar and the careful way he has parsed his words when denying relationships with staff? #insiders*". A copy of this tweet is at page 28 of the Exhibit.
9. On 17 February 2021, Dyer published the following tweet "*Not sure why we expect this Government to do anything substantive about sexual assault when it ignores allegations*



that one of its members is guilty of the same thing. #BrittanyHiggins #whatyouwalkpast #weremember @Milliganreports @samanthamaiden @annabelcrabb". A copy of this tweet is at page 29 of the Exhibit.

10. On 24 February 2021, Dyer retweeted Milligan "*Hi Adelaide readers, its 1 year since I was at @adelwritersweek for this incredible event*". A copy of this tweet is at page 30 of the Exhibit.
11. On 1 March 2021, Dyer gave an interview to the ABC where she said the following:
- i. *"(It) really seemed completely consuming and completely debilitating to her"*
 - ii. *"She was consumed with a trauma which she told me, deeply and consistently, was as a result of an assault that had [allegedly] occurred, early in 1988, and her life at that point was really devoted to exploring how she could get some kind of ... peace from that";*
 - iii. *"She was under no illusions about the difficulties that she would confront if she sought to make a formal complaint against anyone of a crime of such seriousness so far in the distant past."*
 - iv. *"She had made a clear decision; she was able to articulate the reasons why she had taken that decision which were to do with the fact that bearing the trauma had not worked for her. Her life had been troubled as a result of that trauma and she saw no other way of getting past it than to ventilate it."*

A copy of this article is at pages 31 – 35 of the Exhibit.

12. On 1 March 2021, Dyer gave an interview to the Sydney Morning Herald (**SMH**) where she stated the following:
- v. *"We had a number of conversations because we were all very mindful of the difficulties of seeking justice through the criminal justice system"*
 - vi. *"She was someone who suffered from severe mental health illness"*
 - vii. *"Amongst all that there was a determination and a clear resolve, to tell her story, that she had reached after clear-eyed rationalisation."*

A copy of this article is at pages 36-39 of the Exhibit.

13. On 2 March 2021, Dyer gave an interview to the ABC where she said the following:
- viii. *"The account that she gave was shocking. The acts that she described were shocking. They were far outside the experience of any of us at that time as we were in our final years at school. The detail that she recounted, the lucidity with which she recounted it, and the clear impact that it had had on her, all of these*

things persuaded me immediately that she was telling the truth". A copy of this transcript is at pages 40 – 42 of the Exhibit.

14. On 7 March 2021, Dyer published the following tweet "*Sadly, our friend knew spurious "false memories" claims would be deployed against her. We discussed it, right down to the media outlets likely to promote them. @crikey_news was not on our list, and their role is disappointing, but the rest are playing out as predicted. #insiders"*. A copy of this tweet is at page 43 of the Exhibit.
15. On 8 March 2021, Dyer published the following tweet "*.....a mere denial does not end the matter." Sharona Coutts on the flawed logic of those who hide behind the "rule of law", reminding us there's no right to hold high office"*. A copy of this tweet is at page 44 of the Exhibit.
16. On 21 March 2021, Dyer published the following tweet "*The number of areas of his portfolio from which Christian Porter has to recuse himself demonstrates how ludicrous it is he is clinging on to this role. #Insiders"*. A copy of this tweet is at page 45 of the Exhibit.
17. On 21 March 2021, Dyer published the following tweet "*Yes, appalling for Porter to be paid fulltime for part time work...but the point is more fundamental. Credible allegations that he perpetrated a serious crime remain completely untested beyond the PM asking him if they were true. Unacceptable. #Insiders"*. A copy of this tweet is at page 46 of the Exhibit.
18. On 23 March 2021, Dyer published the following tweet "*Distress ostentatiously displayed by Morrison, even as he warns media to "be careful" in their "glass houses". Good to see he's across the minutiae of complaints within News Corp if not the detail of a rape allegation against his Attorney General. #auspol"*. A copy of this tweet is at page 47 of the Exhibit.
19. On 23 March 2021, Dyer published the following tweet "*In the last week, Porter has (a) forum shopped a defamation case against the ABC, (b) been caught lying about the S-G's medevac legislation advice, (c) appointed Mirabella to the Fair Work Commission & (d) still got rape allegations hanging over him. How good is our A-G? #auspol"*. A copy of this tweet is at page 48 of the Exhibit.
20. On or around 26 March 2021, Jo Dyer told the Guardian, speaking on behalf of the victim's friends; "*Talk is very cheap and that is all we have heard. Talk is not enough, we need to see some serious action"*.
21. Dyer also stated the following "*We will not allow this issue to be managed away, it is not an issue for us, it is a dear friend who suffered greatly, so from our perspective it can't*

be an issue that can be managed away. We will do everything that is in our power to ensure that this issue stays front and centre of our agenda and the political agenda ... and there is no indication that the women of Australia think it can be managed away either. Obviously moving Christian Porter out of the attorney general role deals with a lot of the conflicts that he has because he has chosen to launch defamation proceedings ...but the fundamental question remains whether someone who has untested credible allegations of a serious crime hanging over their head is a fit and proper person to hold high office. We would argue no.” A copy of this article is at pages 49 – 51 of the Exhibit.

22. On 29 March 2021, Dyer published the following tweets:

- i. *“It is unacceptable. Porter must stand aside from ALL Ministerial responsibilities while a properly constituted investigation into the allegations occurs. If cleared, he can return to Cabinet. The failure to seek an inquiry begs the question: of what is the Government so afraid?”;*
- ii. *“It is a stark demonstration of what Morrison REALLY believes about this pesky Woman Question that he keeps Laming in parliament and Porter in Cabinet. #auspol”;*
- iii. *“As feared, NOTHING in relation to the credible rape allegations made against Christian Porter by our friend Kate has been addressed by this reshuffle. Due to Kate's tragic suicide, the ONLY investigation of the allegations to date has been:- Morrison: Did you do it? Porter: No.”*

A copy of these tweets is at pages 52-53 of the Exhibit.

23. On 12 April 2021, Dyer published the following tweets:

- i. *“This is a matter for the NSW Police”, says @ScottMorrisonMP of the rape allegations against his Cabinet Minister Christian Porter. Yet, thanks to @ShoebridgeMLC, we now know the opportunity to take Kate's statement was stymied by senior police on three separate occasions. 1/5”*
- ii. *“(1) Despite support of Detective Snr Constable Samantha Meredith, NSW Pol Child Abuse & Sex Crimes Squad investigation teams manager, DCI Mick Haddow, & Commander of the child abuse and sex crimes squad John Kerlatec, Dep Cmr David Hudson denied a request to travel to SA. 2/5”;*
- iii. *“(2) Kate's request to have her statement taken via Skype was declined by NSW Police. 3/5”;*

- iv. *"(3) An offer by the SA Police to take Kate's statement on behalf of the NSW Police was also declined - without consulting Kate. 4/5";*
- v. *"Why? And - given the above - how can the PM say the matter has been resolved by the NSW Police? It is more vital than ever that there is an independent inquiry into the allegations against Mr Porter, and the decisions taken by the NSW Police in relation thereto. #auspol 5/5".*

A copy of these tweets is at page 54 of the Exhibit.

24. On 6 May 2021, Dyer published the following tweets:

- i. *"Christian Porter's defamation action was touted by his lawyers as a substitute for the Inquiry We Didn't Get to Have when the PM refused to read the allegations against him and senior NSW Police rejected the opportunity to take Kate's statement on three separate occasions. 1/4";*
- ii. *"Despite a defamation case always being an inappropriate forum for such serious criminal allegations to be tested, in the absence of anything else, we thought: "Oh well...bring it on.. 2/4";*
- iii. *"Now his lawyers are trying to prevent swathes of the defence evidence from being presented to their vaunted inquiry at all, which rather undermines their earlier argument that this would be a rigorous test of all evidence against their client. 3/4";*
- iv. *"They are trying to prevent further batches of evidence from being made public, leading one to wonder what their client has to hide. Extraordinary but ultimately completely unsurprising tactics. #auspol #porter 4/4".*

A copy of these tweets is at page 55 of the Exhibit.

25. On 13 May 2021, Michael Bradley released a statement on behalf of Dyer. A copy of this statement is at page 56 of the Exhibit.

26. I have reviewed the Facebook page of AB and observed that Dyer is 'friends' with that account and interacted with AB before her death. It has been reported in the media that AB used Facebook to communicate about her allegations made about Porter to her friends including creating a Facebook group to share information. For example an article entitled '*Kate was bright, brilliant and funny. She should not be defined by her alleged rape*' was published on the Crikey website on 12 March 2021. A copy of that article is at pages 57 -72 of the Exhibit.

27. By emails sent on 17 May 2021 and 18 May 2021, I sought Dyer's consent to give discovery of the categories of documents now included in the interlocutory application. Dyer has declined to agree to do so, save for category 1(d). Dyer's solicitors contend it would impose an oppressive burden upon her to have to produce the balance of the

categories of documents and that she should not have to give discovery of documents already in the public domain. Dyer also contends that she should not have to produce copies of statements she may have made to “closed social media groups” because such communications cannot amount to public disclosure and are therefore irrelevant to these proceedings. A copy of the relevant correspondence is at page 73 – 82 of the Exhibit.

- 28. Employees of my firm have undertaken searches for all public statements made Dyer about the allegations concerning Porter. I cannot be certain however that we have been able to gather all such statements because we do not know the times, locations or forums in which such statements were made. It is possible that not all public statements made by Dyer in different fora have been reproduced on the internet.
- 29. Further, Porter does not have access to the content of closed social media groups which may contain discussions in which Dyer participated about the allegations concerning him.

Sworn by the deponent
at 111 Elizabeth St Sydney
in NSW
on 18 May 2021
Before me:



Signature of witness
Alanah Tannous, Solicitor

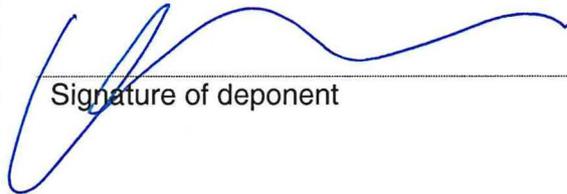
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Signature of deponent

EXHIBIT "RG-1"
AFFIDAVIT OF REBEKAH RUTH GILES
SWORN ON 18 MAY 2021

COURT DETAILS

Court	Federal Court of Australia
Division	General
Registry	New South Wales
Case number	NSD206 of 2021

TITLE OF PROCEEDINGS

First Applicant	Joanne Elizabeth Dyer
First Respondent	Sue Chrysanthou SC
Second Respondent	Charles Christian Porter

CERTIFICATE IDENTIFYING EXHIBIT

This is the exhibit marked "**RG-1**" referred to in the affidavit of Rebekah Ruth Giles sworn before me on 18 May 2021.

Signature of witness



Name of witness

Alanah Tannous

Address of witness

Level 13, 111 Elizabeth Street, Sydney NSW 2000

Capacity of witness

Solicitor

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 18/05/2021 5:05:21 PM AEST and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged: Affidavit - Form 59 - Rule 29.02(1)
File Number: NSD426/2021
File Title: JOANNE ELIZABETH DYER v SUE CHRYSANTHOU & ANOR
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 18/05/2021 5:05:36 PM AEST

A handwritten signature in blue ink that reads 'Sia Lagos'.

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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