Rowbottam v Manicaros **10 May, 3 June 2004-10-16**
Mildren, Thomas & Riley JJ
NTCA 7

Following a hearing in the Darwin Court of Summary Jurisdiction, the respondent (Manicaros) was found guilty of three counts of making a threat to kill a person with intent to cause fear contrary to s.166 of the ***Criminal Code***. The victims were members of the Northern Territory Police Force. The respondent was sentenced to 8 months imprisonment suspended forthwith. An operational period of two years from the date of sentence was fixed.

Each threat was contained on A4 sheets of paper received by each victim through the mail in an envelope. The principal issue at the hearing, before the Supreme Court and the Court of Appeal was whether the respondent was the author of the threatening communications. The evidence for the prosecution consisted of (a) expert evidence that DNA found on the seals of the envelopes sent to the individual police officers matched the DNA of the appellant; (b) expert evidence that the handwriting on the envelope in each instance matched the handwriting of the appellant; and (c) the evidence of a member of the Australian Federal Police relating to the allegations made by the respondent against various people including the three victims.

The respondent then appealed to the Supreme Court against convictions and sentence. On 27 November 2003 the Supreme Court (Angel J) allowed the appeals against conviction, set aside the findings of not guilty and ordered a rehearing. Angel J found it unnecessary to deal with the appeals against sentence. The decision of the Supreme Court is reported as ***Manicaros v Rowbottam*** [2003] NTSC 115.

The prosecution then appealed the whole of the decision of the Supreme Court to the Court of Appeal on the grounds that Angel J erred:

1. in finding that it was not open to the magistrate to conclude that the handwriting on the three envelopes was that of the respondent.

2. in finding that the magistrate's conclusion that he was satisfied beyond reasonable doubt that the respondent was the author of the handwriting on the three envelopes was inconsistent with the magistrate's finding that the handwriting evidence alone was insufficient to find guilt beyond reasonable doubt.

3. in finding that the magistrate wrongfully confined the cross-examination of the member of the Australian Federal Police as regards the police investigations into the appellant's complaints in May 2000.

. The respondent lodged a cross appeal.

In a unanimous judgment, the court allowed the appeal and reinstated the finding of guilty in each case. In essence the court found that it was open on the evidence for the magistrate to make the findings of fact that he did and that the findings made on appeal by Angel J were erroneous. The cross-appeal was dismissed. The matter was remitted back to the Supreme Court to deal with the outstanding appeal against sentence.