



Judge Gordon Lerve

Interviewed by Kavita Balendra

Judge Gordon Lerve has spent most of his career practising outside of Sydney. He has been a private barrister, a Crown Prosecutor, a Magistrate and is now District Court Judge sitting in Wagga. He sat down with Kavita Balendra from the *Bar News* to discuss his experiences working, practising and sitting in regional NSW.



Judge Lerve (JL): I grew up on the wrong side of the tracks of a country town. I got a job with what is now the DPP and was one of two legal officers at Dubbo for a number of years. I worked for 12 months with the National Crime Authority and then the private bar for nearly 4 years. I was a Crown Prosecutor for nearly 15 years, 13 of those at Wagga Wagga. I moved to Sydney in 2004 but it was not to my liking.

In February 2005 I was successful in being appointed a magistrate. I was the magistrate at Moree and later in Albury. In August 2011, I got a phone call from the Chief Magistrate telling me that I was about

to be made an acting judge and I became an Acting Judge for the best part of nine months. I used to joke that I was acting for so long that I needed to take out my own membership of Actors' Equity. I was in Dubbo as an acting judge in November of 2011 and was finally sworn in as a judge on 31 May 2012. I moved away from Dubbo in late May 2017 and am now in Wagga.

Kavita Balendra (KB): *Do you think there is a cultural difference between practising in the country and practising in Sydney?*

JL: Yes there is. You get to know regular practitioners, either as opponents or people

that are appearing in front of you a little better in the country than you would in the city. You do have to be careful as a judicial officer to ensure that lines don't get blurred, but there's nothing to say that you still can't befriend local practitioners. The culture too goes to being concerned about doing the job and making sure that the area to which you are responsible is kept in order and that work is tended to efficiently.

As a judge you do notice when someone is not their usually bright and bubbly self. If we're not part-heard I'll ring them myself [to check on them]. I've also done that with colleagues, particularly those that are new to the country. People have also reached out to me a number of times. I got a great deal of support from the local profession here, particularly after my mum died.

KB: *What steps have you taken to maintain your health?*

JL: I've been a member of the RAAF reserves since 1991. Not only am I a District Court judge but I'm the Deputy Judge Advocate-General of the Australian Defence/Air Force. When I was a Crown Prosecutor at Wagga, there was a substantial RAAF base and army base located there. The military gave me really good social outlets and I've always felt that assisted. Because of the

military presence in Wagga, there's quite a number of the solicitors from there that are members of the reserves.

When I was the magistrate at Moree, it was incredibly lonely out there. I didn't have a partner. I didn't play golf. Moree was isolated and isolating. I went to the gym there but there were issues with being in such a small community. I used to go for long walks for about three-quarters of an hour to an hour and took on a project which I kept up for several years. Exercise became important, and when I was the magistrate at Albury I went to the gym every night. Since I've been in Wagga, I've had a very strict fitness regime. I do six sessions with a personal trainer. I do other exercise as well, so for someone my age I think I'm reasonably fit.

Because I live in the country, I'm always fairly close to work. In fact, it took me over five minutes to get from home to chambers and two of the three sets of traffic lights were red! One thing is I never take work home. I would come into chambers. I would stay back. I would come in on weekends. I would not take work home. I need to draw that line when I go home.

KB: *What about your exposure to relatively serious matters? What steps have you taken to look after yourself?*

JL: I've prosecuted a number of murders. The first one I prosecuted was where the accused had numerous admissions to mental health institutions. One Sunday morning, the voices told her to kill her husband and she belted him across the head about 12 times with a cricket bat and stabbed him 300 times to the chest. You could imagine what the photographs looked like. I have prosecuted a number of other murders since and they affected me nowhere near as much.

When I was a magistrate, particularly at Albury, there was a lot of coronial work and the young male suicides had a very serious effect on me as did driving cases. Death by dangerous driving is a crime where no one ever sets out to commit a crime but something just goes horribly wrong. I would always do a heavy session at the gym after dealing with those. There are no winners in that sort of case. It's a tragedy all round.

[To cope], I certainly have engaged in black humour from time to time with my associate, my regular court officer, practitioners who I know, but who are not involved in the case, and occasionally with colleagues over the phone. I've got to say I've dealt with numerous child sexual assault matters as a Crown Prosecutor and that's where I taught myself to dump the material at the end of the case. I've just done so many of them as a judge and some really horrific ones as well. Some of the victim impact statements are quite harrowing, but again,



it's a case of learning that it is another child sexual assault matter and it is to be dealt with according to principle.

I once heard Judge Peter Burmen say he has a Zen kind of thing when you take off the robes and you cease to be a judge. Similarly once I leave my chambers and walk down the stairs and go out the door and get into the car, that's it I've drawn a line under the day.

I do live a quiet life. My dear departed mum raised a couple of kangaroos, and I'm very keen about kangaroos, as anyone who has been to my chambers would know. I've got my chambers and home decorated in the style of late 20th century marsupial.

In the past, I've had an involvement with WIRES. I was involved more in the release of kangaroos than in looking after them. If I had to look after a little joey, I'd have to keep it all the time. However I haven't been involved in that since I've been in Wagga. There's a little private botanical gardens and I head down to talk to the kangaroos for half an hour or something like that a few times a year. I do a walk twice a week and I do several laps up a steep hill and you quite often see wallabies or grey kangaroos at the top of the hill. I live quite close to the kangas.

KB: *How would you compare the stress of being a judicial officer to being a barrister?*

JL: The stress of the Bar is making sure that the matter is ready and in a fit state to proceed. Even when I was in the private bar, I did almost all of my work in the country area, Dubbo, Broken Hill, Moree and around those areas. As a Crown Prosecutor I appeared in pretty much everything on the list and I took it as an obligation that the Crown had to be ready. That meant a lot of work out of hours, particularly on the weekend. I quite often travelled on weekends, interviewing, conferencing witnesses on Sunday, but that was just seen as part of the job. I had got a lot of job satisfaction making sure matters were ready and running efficiently.

But I'd much rather be a judicial officer than a practising barrister, because it is just a little more controlled. You don't have to be ready in a particular trial every Monday like I was as a Crown Prosecutor. That's not to say that there's not stresses as a judge but it is just a little bit more controlled.

You do [underestimate] how much work is involved. I don't think practitioners, particularly the junior practitioners, have any understanding of the hours and hours



that goes into the preparation, that goes into a judgment. In particular, practitioners go out of their way to be helpful and provide a number of comparable cases or decisions from appellate courts all over Australia but it means that you have to sit down and go through them.

KB: *How would you compare being a Magistrate to being a Judge?*

JL: I think a few years ago, I would have said being a magistrate was harder simply because of the unrelenting and huge volume of matters, particularly in busy regional centres like Albury.

But last year was definitely difficult. My mum, whom I was very close to, passed away in January. I had to attend to the clearing out of her home and things like that. I had judge-alone trial after judge-alone trial and huge sentence matter after huge sentence matter. I know that as I'm getting older, I tend to feel like that the matters are getting more complex and I've made a decision to take some extended or long service leave next year. I just need a break.

The stresses and the issues [of both] are quite different and it is difficult to say which is harder than the other.

KB: *What sorts of supports are there for judicial officers?*

JL: I've had the benefit of two Heads of Jurisdiction that, I am certainly of the view, genuinely care about their troops. The Chief Judge has a video call every couple of months to see how I'm going, and I know Chief Magistrate Graeme Henson has made himself available and encouraged people to talk to one another on a regular basis. He contacted his regional magistrates on a regular basis too.

There is a helpline available. I know some people have taken up sessions with counsellors. It's a bit difficult in the country. Any psychologist-type practitioner worth consulting you can safely assume you are going to get reports from. It's a bit difficult to announce that you have consulted the person professionally when they are providing reports in a trial. In the city, I think there are a few more supports. That's just the practical considerations of being in the country.

KB: *Do you feel like you are missing out on anything particularly being regional?*

JL: Not particularly. For years, I've gone to Sydney twice a year for the bar association's

final mock trial for the bar reader's course. As Deputy Judge Advocate-General, I've been to Sydney to confer with Judge Advocate-General Justice Slattery. I go to the judges meeting at the end of the year. It would be nice to have some colleagues about. There are pluses and minuses but I'd rather have the lifestyle out in the regions.

I've spent most of my time as counsel working in the regions as well and I suppose I was always self-sufficient but there are plenty of people to ring. I also have practitioners into chambers for morning tea on a fairly regular basis too. On rare occasions I've been able to go out to dinner or for a couple of drinks with practitioners, but I'm not talking about making a night out of it.

KB: *What about meeting people on the street? Does that happen a bit?*

JL: I've been recognised in supermarkets and in the Dan Murphy's on the one occasion by an accused which was a little bit embarrassing. I'd presided in a judge-alone trial and found him not guilty. He wanted to start thanking me. I had to tell him, no it was inappropriate, but the lay person does not quite understand that.

A couple of times when I was the magistrate at Moree I've walked past people I recognised on the street. There was never an issue. The people you've dealt with as offenders, you pretend you didn't see them and they do same. I haven't felt threatened. I'm 6 ft 3 and a bit and a fairly solid 88-90 kg, I don't present as a great target.

I was threatened once in Moree. It wasn't very frightening because it was in the middle of the day, in the main street. It was someone who had some courage after using something that was not necessarily legal, and he said something very silly. He was one of a group of people. I did report the matter to the police. I didn't really feel threatened. I didn't do anything different or anything like that.

KB: *You've described the things that you have done for yourself to look after your own health and mental wellbeing, what sort of advice would you have for others?*

JL: Exercise is important and drawing a line under the work each day is also important. It might be that there is no alternative to working from home, particularly if you've got family commitments. But there needs to be an opportunity, every now and then, to get away from work completely.

KB: *Thank you Judge, for talking to me.* **BN**