

Updated Politics Federal [Lehrmann trial](#)

## Lehrmann's barrister refers Higgins' public statement to court, police



[Angus Thompson](#)

Updated October 27, 2022 – 6.46pm, first published at 10.20am

The lawyer for Bruce Lehrmann has referred Brittany Higgins to the court and police after she criticised the criminal justice system on live television on Thursday when his trial was aborted because of jury misconduct.

Lehrmann is alleged to have raped Higgins in the office of their then-boss Linda Reynolds in Parliament House in the early hours of March 23, 2019, but after 12 days of hearing evidence and submissions in the ACT Supreme Court and five days of deliberations, Chief Justice Lucy McCallum disbanded the jury after learning one member had undertaken their own research, which they brought into the jury room.

Lehrmann pleaded not guilty and denies ever having sex with Higgins.



Brittany Higgins speaks to the media outside the ACT Supreme Court on Thursday morning. RHETT WYMAN

McCallum described it as an “unexpected and unfortunate outcome” to the three-week trial. Higgins may have to step back into the witness box next year, with the case relisted for February 20.

Fighting back tears, Higgins stood outside the court on Thursday morning, and described the justice system as “asymmetrical” and having made her feel as if she was the person on trial.

“I was required to tell the truth under oath for over a week in the witness stand; I was cross-examined at length. He [Lehrmann] was afforded the choice of staying silent in court, head down in a notebook, completely detached,” Higgins told reporters outside the ACT Supreme Court on Thursday morning in a statement broadcast live on the ABC.

“I was required to surrender my telephones, my passwords, messages, photos and my data to him. He was not required to produce his telephone, his passwords, messages, photos or his data.”



Bruce Lehrmann leaves the ACT Supreme Court after his trial was aborted due to juror misconduct. RHETT WYMAN

McCallum said the juror misconduct was discovered during routine tidying of the jury room by three sheriff's officers after Wednesday's proceedings, with one of the officers accidentally bumping a juror's document folder onto the floor.

"When the officer picked up the box to replace it on the chair from which it fell, he noticed part of the title page of an academic research paper, the source of which suggested that the topic of the paper might be sexual assault," she said.

"It is beyond question that the conduct of the juror is such as to abort the trial.

"It may be that no harm has been done, but it's not a risk I can take. In the circumstances, I have discharged the juror and I have to discharge you all," she told the jury panel.

"The juror in question this morning gave an explanation suggesting the document had not been used or relied upon by any juror, however, in the circumstances it is appropriate to regard that evidence with scepticism."

Outside court with his client, Lehrmann's barrister Steven Whybrow said: "Everyone is disappointed at what happened but it would be inappropriate and irresponsible to say anything at this stage."

Whybrow later released a written statement after Higgins made her public comments.

"Notwithstanding her honour's admonition, the complainant proceeded to give what appears to have been a pre-prepared speech to the media outside the court," the statement said.

“We have brought these comments to the attention of the court and the Australian Federal Police, and it is not appropriate for Mr Lehrmann or his lawyers to make any comment as to whether the complainant’s statements might amount to a contempt of court or offences against the ACT Criminal Code.”

The AFP declined to comment on the matter, while the court declined to comment on the referral of Higgins’s statement, but said the conduct of the juror in question didn’t constitute an offence in the ACT.

McCallum said she’d warned the jurors 17 times throughout the trial against conducting their own research. “It should go without saying that this is both an unexpected and unfortunate outcome in this trial,” she said.

Three days into deliberations, the jury said it was unable to reach a verdict before McCallum pressed the eight women and four men to keep striving towards a decision.

The judge on Thursday urged the media against reporting any further on the case following Thursday’s outcome, adding she expected that after today “the matter would fall silent so the accused could have a fair trial, and Ms Higgins could have some respite from the constant glare of the media that has been pervasive throughout the trial”.

Higgins said outside court her life had been publicly scrutinised, “open for the world to see”.

“His was not. Many of you in the media have been called out for labelling the last few weeks the Higgins trial. But I don’t blame you because it’s very clear who has been on trial. He hasn’t had to be publicly accountable for his actions or any part of his story.

“Like all women who experience sexual violence, I knew the odds were stacked against me ... The criminal justice system has long failed to deliver outcomes to victims of sexual assault,” she said, adding low rates of conviction were a “national shame”.

***Cut through the noise of federal politics with news, views and expert analysis from Jacqueline Maley. Subscribers can sign up to our weekly [Inside Politics newsletter here](#).***



**Angus Thompson** is a federal political reporter covering industrial relations for The Sydney Morning Herald and The Age. Connect via [Twitter](#) or [email](#).

---