

***Parkinson v Alexander* [2017] ACTSC 201 (4 August 2017) – Australian Capital Territory Supreme Court**

‘Administration offence’ – ‘False accusation’ – ‘Interpretation of evidence’ – ‘Procedural fairness’ – ‘Tendency evidence’

Charges: Making a false accusation x 3; Public mischief x 6.

Appeal type: Appeal against conviction.

Facts: The defendant and ‘EK’ had been in a relationship. After the relationship had ended, the defendant made allegations to the police that EK had sexually assaulted her, had followed her in his car, and had broken into her house ([5]-[12]). The police made investigations, but eventually determined that the accusations were false ([14]).

At trial, the prosecution relied upon the following evidence to show the defendant’s tendency to make false complaints: the fact that there were many allegations supported the inference that each one was false; a complaint of sexual assault made by the defendant against a neighbour when she was 17; and three other allegations made by the defendant against EK’s family ([26], [29]). The defendant was convicted of two counts of making a false accusation and three counts of public mischief (for wasting police officers’ time). She had not yet been sentenced.

Issues: One issue was whether the Magistrate correctly applied tendency evidence.

Decision and Reasoning: The appeal was partially upheld. Justice Refshauge found that the Magistrate applied the tendency evidence incorrectly for two reasons.

- > First, the sequence in which the Magistrate addressed the incidents was not logical. The Magistrate first found that the defendant made two false allegations in 2014. The Magistrate then used the evidence of the 2014 allegations to support reasoning that earlier accusations, in 2013, were also false ([52]).
- > Second, the Magistrate reformulated the tendency evidence to conclude that it showed a ‘vendetta against the family’ ([32], [45]). This was not how the prosecution framed the evidence in the notice of tendency evidence, and the defendant was not given an opportunity to respond to this argument ([45]). Therefore, the evidence was inadmissible ([68]).

Note: this case was subsequently remitted to the Magistrates Court for retrial before a different Magistrate, see *Parkinson v Alexander (No 2)* [2017] ACTSC 290 (9 October 2017).