

***R v Schmidt* [2017] SADC 98 (30 August 2017) – District Court of South Australia**

‘Admissibility’ – ‘Evidence not accepted’ – ‘Jealousy’ – ‘Judge-only trial’ – ‘Strangulation’ – ‘Tendency evidence’ – ‘Uncharged acts of violence’

Charges: Aggravated serious criminal trespass in a place of residence x 1; Indecent assault x 1; Assault x 1; Theft x 1.

Case type: Trial by a single judge.

Facts: The complainant alleged that the accused entered her house, strangled her, grabbed her in the vagina, punched her in the face and stole her mobile phone ([23]-[26]). The accused denied all the allegations ([6]).

Issues: Whether the accused should be convicted.

Decision and Reasoning: Judge Rice convicted the accused on counts 1, 2 and 4 ([56]). In relation to Count 3 (assault), Rice J found that it was not proved beyond reasonable doubt that the accused punched the complainant ([54]).

Evidence of uncharged acts of violence occurring earlier in the relationship was also admitted. The prosecution said that it showed that ‘the accused had a tendency to act in a violent and controlling manner’ towards the complainant ([12]). However, Judge Rice ignored the evidence on the basis that some of the complainant’s evidence was inconsistent, and was not supported by independent evidence ([20]).