

## ***Rana v Gregurev* [2015] SASCFC 58 (27 April 2015) – Supreme Court of South Australia (Full Court)**

‘Appeal’ – ‘Emotional and psychological abuse’ – ‘Following, harassing, monitoring’ – ‘Interim intervention order’ – ‘Purpose of intervention orders’

Appeal Type: Application for permission to appeal against a decision of a single judge of the Supreme Court who dismissed an appeal against a decision of a Magistrate who refused to make an interim intervention order.

Facts: The applicant brought an application for an interim intervention order in the Magistrates’ Court against the respondent (the applicant’s former girlfriend’s mother). The applicant claimed that the respondent had been bullying, cyber stalking and contacting his psychiatrist online and in person, as well as defaming him on the internet. The basis of his application was that it was reasonable to suspect that the respondent would commit an act of abuse against him by causing personal injury and criminal defamation on the internet. In the original appeal to a single judge of the Supreme Court, Peek J dismissed every ground of appeal - see *Rana v Gregurev* [2015] SASC 37. The applicant had a long history of psychiatric issues, and a psychiatrist’s report detailed the impact of the websites on his general well-being (See at [31] of Peek J’s decision).

Issue/s: Some of the issues concerned –

1. Whether the applicant had a sufficient opportunity to present his application in the Magistrates’ Court.
2. Whether the Magistrate correctly applied ss 8 and 10 of the *Intervention Orders (Prevention of Abuse) Act 2009* (the Act) which define different types of abuse and sets out general principles which the Court must follow in considering intervention orders.
3. Whether the Magistrate correctly exercised her discretion to refuse the applicant’s application and whether she should have found that there was evidence which gave rise to a reasonable suspicion that the respondent would commit an act of abuse.
4. Whether the Magistrate correctly applied ss 6, 10 and 28 of the Act which set out what must be proven in an intervention order application.

Decision and Reasoning: All aspects of the Supreme Court decision (Peek J - *Rana v Gregurev* [2015] SASC 37) were upheld by the Full Court.

1. This argument had no substance – he appeared before the Magistrate on four occasions. The Magistrate was concerned to ascertain the detail of the case.
2. Peek J (in the Supreme Court) noted at [14]-[15] that the purpose of the Act is to, ‘protect people when it is reasonable to suspect that somebody...will, without intervention, commit an act of abuse’. His Honour

also noted that because abuse is defined so broadly, it is important for the courts to ensure that this does not result in the Act being abused through 'specious or unwarranted claims' which will have 'detrimental consequences' to the courts and to people who become the subject of unwarranted orders. The Magistrate correctly applied the Act to conclude that it was not reasonable to suspect that without an intervention order there would be any further abuse.

3. In dismissing ground 3, the Court noted that the crucial issue is not whether acts of abuse had been committed in the past, but whether, without an intervention order, such acts would be committed again, and whether the imposition of such an order is appropriate in the circumstances.
4. The Court found the Magistrate correctly approached the task in the application which was to decide whether there was a reasonable suspicion that an act of abuse would occur.