

***Stone v Police* [2015] SASC 28 (3 March 2015) – Supreme Court of South Australia**

‘Contravention of intervention order’ – ‘Evidence’ – ‘Evidence of discreditable conduct’

Charge/s: Contravention of intervention order (two counts).

Appeal Type: Appeal against conviction.

Facts: The protected persons in the order were the appellant’s neighbours, with whom the appellant had been in conflict for an extended period. There was a considerable amount of evidence admitted at trial regarding the history of the appellant’s behaviour towards the complainants.

Issue/s: Whether the Magistrate erred by admitting evidence of the appellant’s prior discreditable conduct.

Decision and Reasoning: The appeal was upheld. The Court found that the Magistrate did not give an adequate explanation of the purpose of the evidence of the appellant’s prior behaviour towards the complainants. Furthermore, the Magistrate made no reference to s 34P of the *Evidence Act 1929* which sets out rules regarding this type of evidence. The Court found that the evidence was ‘highly prejudicial’ to the appellant because it was similar to the offences which were the subject matter of the trial, and indicates that the accused has a propensity to commit offences of a similar nature. If it was to be used in that way, the Magistrate had to be satisfied that its probative value outweighed its prejudicial effect on the accused. Furthermore, no notice was given by the prosecution of their intention to adduce such evidence, and no direction was made by the Magistrate as to its use.