

T, R v L, KC [2013] SASC 51 (15 April 2013) – Supreme Court of South Australia

‘Family law proceedings’ – ‘Intersection of legal systems’ – ‘Jurisdiction of family court of australia’ – ‘Jurisdiction of state courts’ – ‘Protection order’ – ‘Self-represented litigants’

Appeal type: Appeal against Magistrate’s decision to dismiss application for intervention order.

Facts: The appellant and respondent were separated and had two children. Orders were made in the Federal Magistrates Court in relation to custody, access and protection of their children ([4]). The orders provided that the children live with the appellant, that the respondent have limited access to the children, and preventing the respondent from bringing the children into contact with certain people ([5]-[6]).

The appellant sought an intervention order in the Magistrates Court restraining the respondent from contacting the children ([11]).

Issues: Whether the Magistrate erred in holding that the Family Court was the proper forum for the appellant to pursue the relief he seeks.

Decision and Reasoning: The appeal was dismissed. The Family Court had jurisdiction over the proceedings and could amend the parenting orders if it considered appropriate ([18]-[19]). An intervention order made by the Magistrates Court would be invalid to the extent of inconsistency with the Family Law Act ([16]).