

***B, JL v Police* [2017] SASC 9 (10 February 2017) – Supreme Court of South Australia**

‘Intermediate sanctions’ – ‘Physical violence and harm’ – ‘Pregnant people’ – ‘Protection orders’ – ‘Sentencing’ – ‘Women’ – ‘Young people’

Charges: Aggravated assault x 1.

Appeal type: Appeal against sentence.

Facts: The appellant and complainant were in a domestic relationship. They had a 7-month-old child and the complainant was pregnant with another child. The appellant was 17 years old at the time of the offences. An intervention order was in place requiring the appellant to not assault, harass, intimidate or threaten the complainant. The offence occurred when the appellant grabbed the complainant by the upper arms and squeezes them ([6]).

The Magistrate recorded a conviction and imposed a 12-month good behaviour bond.

Issues: Whether the magistrate erred in recording a conviction.

Decision and Reasoning: The appeal was allowed. The conviction was set aside, and again imposed the 12-month good behaviour bond ([24]).

The appellant submitted that the magistrate failed to have sufficient regard to the appellant’s youth and the purposes of the *Young Offenders Act 1993* (SA), in particular the policy that there should be no unnecessary interruption of employment ([12]).

Stanley J emphasised that the appellant had a history of domestic violence and highlighted the need for general deterrence at [19]:

Offences of violence by men against women are all too prevalent. All too often they result in harm but the deterrence of those offences will not be adequately achieved unless all offences of violence, whether they cause harm or not, are properly addressed.

Nonetheless, Stanley J held that the public interest in a conviction being recorded is diminished when the defendant is a youth ([18]). It was important that the appellant was now reconciled with the complainant and his ability to provide for her and their children would be diminished by recording a conviction ([22]).