***Parker v Hall*** **[2015] TASSC 60 (10 December 2015) – Supreme Court of Tasmania**

'Breach of domestic violence order' – 'Following, harassing, monitoring' – 'Manifestly inadequate' – 'Recording a conviction' – 'Sentencing' – 'Totality'

Charge: Breach of family violence order

Appeal type: Appeal against sentence

Facts: The respondent and complainant had been in an on-again off-again relationship for two years. A police family violence order was made against the respondent, restraining him from contacting or approaching the complainant within 50 metres. The respondent contravened this order on four separate occasions by phoning the complainant, writing her a letter expressing his affection and remorse, going camping with her, and giving her a letter conveying his desire for reconciliation. An interim family violence order was then made. The conditions of the order were substantially the same as the police family violence order. The respondent then breached this order by meeting the complainant to talk on two separate occasions. The respondent was charged and found guilty of four breaches of a police family violence order and two breaches of an interim family violence order. The magistrate adjourned the charges without conviction for 12 months on the condition that the respondent enter into a good behaviour undertaking and not commit similar offences during the period.

The respondent had previously been found guilty of breaching a police family violence order and an interim family violence order, which were also sentenced without conviction. This offending occurred during the same time period as the six charges in question. The prosecution submitted a more severe sentence would have been imposed if all the charges had been sentenced together. The respondent had no other relevant prior convictions. His conduct did not involve any threats or violence and occurred with the complainant's consent to varying degrees. Further, the respondent's counsel submitted that as a legal practitioner, he suffered more than the average citizen as a consequence of the charges.

Issue: Whether the sentence was manifestly inadequate.

Decision and reasoning: The appeal was dismissed.

Despite the complainant's compliance, the respondent knew that his conduct was in breach of the orders. Further, his repeated offending of eight separate breaches increased his culpability and pointed towards the need for specific deterrence. However, the respondent's breaches, while not trivial, were not at the serious end of offending. The public interest did not favour a conviction being recorded. As a result of the media attention attracted by the matter, the respondent had already felt the consequences of his offending behaviour to a degree. If the charges were heard together with the previous two offences, the offending would not have necessarily demanded a heavier or more punitive response. Considering these factors together, Wood J concluded that there was sufficient justification for leniency extended to the respondent and the sentence was not manifestly inadequate.