

***Bonde v Maney* [2018] TASSC 23 (17 May 2018) – Supreme Court of Tasmania**

‘Assault’ – ‘Dismissal of charges’ – ‘Evidence of respondent’

Charges: Common assault x 1.

Case type: Application for review of Magistrate’s decision to dismiss charge.

Facts: The complainant alleged that the respondent tried to grab the complainant’s car keys from her, injuring her fingers in the process ([3]). The respondent denied assaulting the complainant and alleged that the complainant injured her fingers when she was trying to retrieve her keys ([4]). After the prosecution case closed, the Magistrate immediately moved to judgement without giving the respondent the opportunity to give evidence ([5]). The Magistrate dismissed the charge of assault on the basis that she was not satisfied beyond reasonable doubt that the respondent deliberately or recklessly caused the injury ([5]).

Issues: The complainant argued that the magistrate erred in law by:

- > first, stating that the respondent must have intended the injuries for the charge of assault to be made out;
- > second, failing to give sufficient reasons as to why she was not satisfied that the charge was proven; and
- > third, dismissing the complaint when on no reasonable view of the evidence could the learned magistrate have failed to be satisfied beyond reasonable doubt of the guilt of the respondent.

Decision and Reasoning: The first ground was upheld because the causation of injury is not an element of assault ([7]-[8]). The second ground was also upheld because it was not possible to discern from the Magistrate’s reasons the factual basis for the determination ([15]). Therefore, it was not necessary to consider the third ground ([16]).

The case was remitted to be determined by another Magistrate ([20]).