

***Barnes v Crossin* [2017] TASSC 61 (12 October 2017) – Supreme Court of Tasmania**

‘Arrest’ – ‘Reasonable suspicion’ – ‘Responses in criminal proceedings’

Charges: Resisting a police officer in the execution of their duty x 1.

Case type: Review of Magistrate’s decision to dismiss charge.

Facts: The police attended the respondent’s house in response to a call from the respondent’s son, who told the police that his father was ‘going off’ and had hit his mother. When they arrived, there were clothes strewn around the front yard. The police arrested the respondent. They gave the reason to ‘investigate family violence’ ([3]). The respondent struggled against the police, which gave rise to the resisting police officer charge. The Magistrate dismissed the charge on the basis that the arrest was unlawful in the first place ([4]).

Issues: Whether the Magistrate erred in dismissing the charge.

Decision and Reasoning: The Magistrate did err in dismissing the charge.

The power to arrest is derived from the *Family Violence Act 2004* (Tas), which requires ‘a reasonable suspicion that the person concerned has committed family violence’ ([27]). This is distinct from a suspicion that the person committed a family violence *offence* ([33]). Brett J held that there was ample evidence to support the suspicion that there had been family violence, and he had adequately communicated that fact to the respondent ([46]).

Brett J remitted the matter to be decided by the same Magistrate ([53]).