

***Pillage v Coyne* [2000] WASCA 135 (19 May 2000) – Supreme Court of Western Australia (Court of Appeal)**

‘Breach of violence restraining order’ – ‘Importance of appropriate penalties’ – ‘Physical violence and harm’ – ‘Technical or trivial breach’ – ‘Temporary protection order’

Charge/s: Breach of violence restraining order.

Appeal type: Appeal against sentence.

Facts: The female appellant and the male respondent had been in a relationship for six years. The appellant obtained an interim violence restraining order against the respondent. The respondent was charged with one offence of unlawful assault and four offences of breaching a violence restraining order. The magistrate dismissed the charge of assault and two charges of alleged breach of a violence restraining order. He convicted the respondent of two charges of breach for going into the bedroom of the complainant in the early hours of the morning and communicating with her by telephone on the same morning. The magistrate gave no real reasons for either the acquittals or the convictions he recorded (See [6]). The magistrate also decided to impose no penalty, without giving any reasons for doing so (See [7]).

Issue/s: The magistrate erred in law and in fact in imposing no penalty or sentence.

Decision and Reasoning: The appeal was upheld. The magistrate made no reference to the provisions of the section of the Act allowing for the imposition of no penalty if certain preconditions are met. This constituted sufficient grounds for allowing the appeal. Further, this section also had no relevance in this case. The circumstances of the offence were neither trivial or technical (See [9]-[12]), and it was not unjust to impose a sentence in light of the fact that respondent was 42 years of age, employed with a regular income, and had a prior record of convictions (See [13]). Miller J also noted the clear social importance of the *Restraining Orders Act 1997*. His Honour provided, ‘*protected persons in the community generally must have confidence that restraining orders will be obeyed and complied with ... [When] they are not, there must be significant consequences to support the fact that restraining orders mean something ... [The] courts [must] ensure that their orders are not ignored*’ (See [13]-[15]). Fines of \$750 and \$250 were substituted. See also *Dawes v Coyne* [2000] WASCA 134.