Barron v Laverty **[2019] ACTSC 198 (31 July 2019) – Australian Capital Territory Supreme Court**

'History of abuse' – 'People affected by substance misuse' – 'Protection order' – 'Sentence'

Charges: 5 x contravention of a Family Violence Order; 1 x use carriage service to harass/menace

Case type: Appeal against sentence

Facts: In early 2019, the appellant was sentenced to a total of 2 years' and 8 months' imprisonment, with a non-parole period of 18 months, following guilty pleas to 6 charges, namely, contravening family violence orders obtained by his parents and his ex-partner against him and using carriage service to harass/menace.

Issue: The appellant appealed against the sentence on various grounds, including that the total sentence was manifestly excessive and that her Honour erred in her approach to s 110(2)(a) Crimes (Sentence Administration) Act 2005 (ACT) by ordering that the suspended sentences imposed for the breach offences be served cumulatively.

Held: Murrell CJ noted that the appellant had a very significant domestic violence history ([52]). Her Honour considered the appellant's prior convictions of matters of dishonesty, and contravening protection orders ([25]), for which he had been sentenced to 5 months' imprisonment suspended for 12 months. Offences 1 and 2 were committed while he was subject to these suspended sentences, and Offence 3 was committed 3 days after his release from prison (for contravening a protection order) ([26]). Further, the appellant's illicit substance abuse rendered him unsuitable for an Intensive Corrections Order (ICO) ([29]).

Murrell CJ held that the appellant's continued contraventions of court orders required a significant total sentence to be imposed. Her Honour was not satisfied that, when considering the appropriateness of the total sentencing, the sentencing judge erred in exercising her sentencing discretion ([41]).

The appellant argued that, as the original suspended sentences were concurrent, the sentencing judge fell into specific error when she made them cumulative ([56]). After analysing the interpretation of s 110(2) in some detail, her Honour concluded that the sentencing judge fell into error ([95]). The appeal was therefore allowed and the appellant was re-sentenced to a total sentence of 2 years' imprisonment with a non-parole period of 13 months ([100]).