***Rich v The Queen* [2015] NSWDC 71 (18 May 2015) – New South Wales District Court**

'Common assault' – 'Contravention of a protection order' – 'Physical violence and harm' – 'Protection orders' – 'Service'

Charge/s: Contravention of a protection order, common assault.

Appeal Type: Appeal against conviction.

Facts: A Provisional Apprehended Order was made nominating the appellant's partner as the protected person and the appellant as the defendant. This was served on the appellant by the police. The appellant then appeared in court represented by counsel from the Aboriginal Legal Service and an interim Apprehended Violence Order (AVO) was made. The appellant assaulted the protected person and was charged. There was a hearing in the Local Court where a plea of guilty was entered with respect to the assault charge and the appellant defended the contravene AVO charge. The Local Court found the appellant guilty of the contravene AVO.

Issue/s: Some of the grounds of appeal included –

1. The prosecution was unable to prove service of the Provisional Apprehended Order on the appellant because the Statement of Service submitted breached the hearsay rule in s 59 of *Evidence Act 1995.*
2. The magistrate in the Local Court should not have informed himself of the events of the appellant's appearances in court for the interim AVO.

Decision and Reasoning: The appeal was dismissed. First, the Statement of Service complied with the Local Court Rules. It did not need to be signed as it was served by a police officer and it was sufficient that the officer wrote 'Dubbo' in the space for the address (r 5.12 Local Court Rules). Rule 5.12 exists to serve the purpose of facilitating proof of service of the process (See [29]-[36]). In any event, the appellant was present in court when the Interim Order was made (See [48]). Second, the magistrate informed himself of the course of events by reading the bench sheet. He was entitled to do so (See [49], [57]).