

***DPP (NSW) v Lucas* [2014] NSWSC 1441 (20 October 2014) – New South Wales Supreme Court**

‘Damaging property’ – ‘Evidence’ – ‘Intentionally or recklessly damaging property’ – ‘Intimidation’ – ‘Relationship/context evidence’

Charge/s: Intentionally or recklessly damaging property, intimidation.

Appeal Type: Crown appeal against the dismissal of the charges.

Facts: The male defendant had been in a domestic relationship with the female complainant that had ended some years prior to the offence. Since that time, the complainant had taken steps to conceal where she was living with her children from the defendant. He found where they were living and was permitted to have contact and access to children. One evening, the defendant turned up to the complainant’s home uninvited and unannounced. She locked herself and the children inside the house while the defendant was yelling and screaming and making threats, including threatening to deflate the tyres on her car. It was alleged that he then deflated a tyre on her car. These charges were dismissed by a magistrate.

Issue/s: One of the grounds of appeal was that the magistrate erred in excluding evidence of a ‘pattern of violence’, such evidence being relevant to the intimidation charge under s 7(2) of the *Crimes (Domestic and Personal Violence) Act*.

Decision and Reasoning: This ground of appeal was dismissed but the appeal was upheld on other grounds (failure to give reasons and error as to what constituted damage). Examination of the transcript indicated that the magistrate’s approach was that the prosecutor should lead evidence of the actual incident itself before leading any other evidence under s 7(2), if it was then considered necessary (See [24]-[30]).