

***Blitner v Vanzella* [2012] NTSC 72 (26 September 2012) – Northern Territory Supreme Court**

‘Breach of domestic violence order’ – ‘Lapse of domestic violence order’

Charge: Breach of domestic violence order

Appeal type: Appeal against conviction

Facts: The appellant was the subject of a police domestic violence order that restrained him from approaching, contacting or remaining in the company of the protected person when consuming alcohol or under the influence of alcohol. Subsequently, the Court of Summary Jurisdiction made restraining orders against the appellant. These orders did not include any ‘non-intoxication conditions’. Four days after the restraining orders were made, the Court of Summary Jurisdiction allowed the police domestic violence order to lapse. The appellant was subsequently charged with breaching this order. He pleaded guilty to these offences and was convicted and fined.

Issue: Whether the police domestic violence order was in force and capable of being breached.

Decision and reasoning: The appeal was allowed and the conviction and sentence was quashed.

Under s 82 of the *Domestic and Family Violence Act 2007* (NT) the court must either confirm or revoke a police domestic violence order. The magistrate’s order to allow the police domestic violence order to lapse was an effective revocation under s 82. As a result, the appellant was not restrained by a domestic violence order from being or remaining in the company of the protected person when consuming alcohol or being under the influence of alcohol. Therefore, he could not be in breach of the revoked police domestic violence order.