

***Bonney v Thompson* [2011] NTSC 81 (7 October 2011) – Northern Territory Supreme Court**

‘Emotional and psychological abuse’ – ‘Exposing children’ – ‘Extension of domestic violence order’ – ‘History of abuse’

Appeal type: Appeal against refusal to extend domestic violence order

Facts: The respondent, the appellant’s ex-partner, was the subject of a non-contact domestic violence order. The order was initially to be in force for 12 months, but the appellant applied for the order to be extended for a further two years. This application was dismissed. In deciding whether to grant the extension, the magistrate refused to consider the past history of domestic violence. The magistrate did not consider that a history of domestic violence is sufficient for the court to continue an order.

The magistrate also refused to have regard to events that occurred after the making of the original order. The appellant alleged the respondent had approached her daughter, asked for money and threatened to hit her. The magistrate concluded this threat was not relevant because it related to ‘a different adult, not in the company of the complainant, not living with the complainant’ ([22]). The respondent also told his and the appellant’s children to tell the appellant that it was dangerous staying in town, and that she was ‘looking for trouble by living in town’.

Issue: Some of the grounds of appeal included whether the magistrate erred in:

- Finding that previous evidence of violence is insufficient to extend an order; and
- Failing to have regard to statement made to the appellant’s family members in considering the reasonable fear of the appellant.

Decision and reasoning: The appeal was allowed and the domestic violence order was extended.

- The magistrate erred in failing to consider the history of domestic violence that led to making the original domestic violence order. In failing to do so, the magistrate made an error of law in failing to take into account relevant facts as required by s 53 and s 19(2)(d) of the *Domestic and Family Violence Act 2007* (NT). The question is whether the court is satisfied that there are reasonable grounds for the protected person to fear domestic violence. This question may be satisfied based solely on past conduct of domestic violence: ‘To hold that an application to extend a DVO could never be granted solely on evidence of past domestic violence occurring before the date of the original order, would be tantamount to saying that a DVO can never be extended unless it has been breached.’ ([19]).
- The magistrate also erred in failing to take into account the evidence of threats made by the

respondent to the appellant's daughter and their children. The threat to the appellant's daughter was relevant to show the defendant had not reformed and was still prone to threats of violence. Further, the remarks to the children taken in context with the past history of domestic violence support that the appellant had reasonable grounds to fear the commission of domestic violence against her.