

***Malogorski v Peart* [2011] NTSC 86 (21 October 2011) – Northern Territory Supreme Court**

‘Breach of domestic violence order’ – ‘External orders’ – ‘Registration of interstate domestic violence order’ – ‘Statutory interpretation’

Charge: Breach of domestic violence order

Proceeding: Question of law under s 96 *Domestic and Family Violence Act 2007* (NT)

Facts: The defendant was the subject of an interim violence restraining order made under the *Restraining Orders Act 1997* (WA) (the WA Act). The interim order was registered as an external order in the Northern Territory pursuant to the procedures in Chapter 3 of the *Domestic and Family Violence Act 2007* (NT) (the NT Act). Subsequently the interim order was made into a final order in Western Australia, however this was never registered in the Northern Territory. The defendant came into contact with the protected person in the Northern Territory, in breach of the external order. At trial, it was argued that there was no case to answer because the interim order made in Western Australia had ceased to be in force once the final order was made. Therefore, the interim order was also no longer registered in the Northern Territory as an external order under s 96 and could not be enforced.

Issue: Whether an interim order under the WA Act continues to be ‘in force’ within the meaning of s 96 of the NT Act after the interim order is made final.

Decision and reasoning: Kelly J answered the question in the negative.

Under the WA Act, an interim order remains in force until one of the specified events in s 16(4) occurs, including when a final order comes into force. Section 96 of the NT Act provides that an external order is registered ‘for the period during which it is in force’. Therefore, on the date of the alleged offence the interim order was not ‘in force’ in WA; accordingly, there was no external order enforceable under the NT Act.