

ZXA v Commissioner of Police [2016] QCA 295 (15 November 2016) – Queensland Court of Appeal

‘Domestic violence protection order’ – ‘Rights of appeal’

Appeal Type: Appeal against domestic violence protection order.

Facts: The applicant was named as the respondent in a domestic violence protection order under s 37 of the *Domestic and Family Violence Protection Act 2012* (Qld). He filed an appeal to the District Court under s 164 of the Act. The appeal was dismissed. The applicant then attended the Supreme Court registry to file an application for leave to appeal under s 118 of the *District Court of Queensland Act 1967* (Qld). Despite being told that there was no right of appeal, the applicant persisted until the registry acceded to his demands.

Issue/s: Whether the Court of Appeal had jurisdiction under s 169(2) of the *Domestic and Family Violence Protection Act 2012* (Qld) to hear the appeal?

Decision and Reasoning: The appeal was dismissed. Under s 169(2) of the Act, the decision from which the applicant seeks leave to appeal ‘shall be final and conclusive’. While s 118(3) of the *District Court of Queensland Act* allows a party to appeal, it does not apply to a decision of the District Court in its appellate jurisdiction under s 169(1): see *CAO v HAT & Ors [2014] QCA 61* [25] – [27]. The President concluded:

‘The scheme under the Act contemplates that domestic violence protection orders can be made by a wide variety of courts with a right of appeal from such orders... The scheme does, however, clearly contemplate only one level of appeal. The plain words of s 169(2) that such an appeal is “final and conclusive” indicate that the legislature intended that there be no further appeal. The applicant has exhausted his single right of appeal from the Magistrates Court to the District Court. He can, of course, apply to vary the domestic violence protection order under s 86 of the Act, including to vary the duration of the order: see s 86(3)(b) of the Act.’