

***R v Warradoo* [2014] QCA 299 (25 November 2014) – Queensland Court of Appeal**

‘Directions and warnings for/to jury’ – ‘Evidence’ – ‘Hearsay’ – ‘Murder’ – ‘Physical violence and harm’ – ‘Relationship evidence’

Charge/s: Murder.

Appeal Type: Appeal against conviction.

Facts: The appellant was convicted of the murder of his girlfriend. (See further at [3]-[7]). It is unclear whether at the time of the offence, there was a current or lapsed protection order against the appellant in favour of the victim. At trial, evidence relating to conversations with the deceased’s niece and mother which detailed instances of prior violence committed by the appellant was admitted. No warning was given by the trial judge as to the potential unreliability of this evidence as hearsay.

Issue/s: Whether the trial judge erred by not giving adequate warnings with respect to evidence admitted under section 93B of the *Evidence Act 1977*.

Decision and Reasoning: The appeal was dismissed. Holmes JA stated (at [8]) that section 93B operates to, *‘(render) the hearsay rule inapplicable to evidence of a representation of fact made by a person who is dead, if the representation was made shortly after the asserted fact happened and in circumstances making it unlikely to be a fabrication, or was made in circumstances making it highly probable it was reliable.’* It was held that a direction from the trial judge about the unreliability of the evidence as hearsay would not have been particularly helpful, and may have even been disadvantageous to the appellant. Also, the evidence was admissible under s 132B of the *Evidence Act 1977* as evidence of the history of a domestic relationship.