

SCT v Director of Public Prosecutions (Qld) [2017] QCA 31 (13 June 2017) – Queensland Court of Appeal

‘Bail’ – ‘Choke hold’ – ‘Contravention of domestic violence order’ – ‘Strangulation’

Charges: Contravening domestic violence order x 2; Choking, suffocation or strangulation in a domestic relationship x 1.

Case type: Renewed application for bail.

Facts: The applicant and complainant had been in a domestic relationship. A domestic violence order had been granted ([7]). The complainant made the following allegations: the applicant went to the complainant’s house and punched her in the leg ([7]); he threw a pillow at the complainant; and put her in a choke hold ([8]). Bail was originally refused ([9]). Since then, new evidence of a demonstrated that a trial in the District Court would be more than a year away ([10]).

Issues: Whether the evidence of a new trial date justified a grant of bail.

Decision and Reasoning: Bail was granted with conditions that he not have contact with the complainant, that he reside at a specified address, and that he report to the police daily.

Under s 16(3)(g) *Bail Act 1980* (Qld), for which the new offence of strangulation is a ‘relevant offence’, the onus was on the applicant to show cause why bail should be granted ([13]). The Court explained that on one hand, there was a real risk that he would reoffend because the applicant and complainant lived in the same town, and they may contact each other ([14]). On the other hand, he had accommodation with family members available, an offer of employment ([15]), and there was a real prospect that he would spend longer on remand than he would serve in custody ([16]). On balance, the risk of reoffending was not unacceptable (s 16).