

***OMD v Queensland Police Services & Anor* [2021] QDC 282 (19 August 2021) – Queensland District Court**

‘Adult children’ – ‘Emotional and psychological abuse’ – ‘Family court proceedings’ – ‘Female perpetrator’ – ‘Following, harassing and monitoring’ – ‘Parental alienation’ – ‘Protection order’ – ‘Protection order appeal’ – ‘Systems abuse’

Matter: Protection Order appeal.

Facts: On 13 January 2021, the Magistrate granted an application for a Protection Order against the female appellant in favour of her ex-husband (aggrieved) and their two adult children (Named Persons) [4]. Her Honour found that the appellant had engaged in domestic violence in the form of unauthorised surveillance [17]. The appellant continually visited the aggrieved’s home and the immediate area, with a camera and appeared to take photos of the house even after her ex-husband and their children repeatedly told her to stop [11]. Her Honour found it was necessary to make the order to enable the children to be in their home without fear of being surveilled or monitored by their mother [15].

Proceeding: Appeal against a Protection Order.

Decision and Reasoning: The Protection Order was varied so even though the appellant is prohibited from being within 100 meters of the aggrieved’s home the appellant can reside at her home (less than 100m from the aggrieved’s home) or enter/exit her property by a route that does not require driving past the aggrieved’s home. The appeal was otherwise dismissed.

Grounds 3 to 9: *The Magistrate erred in not considering the alleged history of domestic violence by the aggrieved against the appellant and concluding that she was the person most in need of protection.* (Appeal Failed)

Porter QC DCJ found there was no evidence of domestic violence by the aggrieved against the appellant and that there was no admission or court findings of instances of domestic violence committed by the aggrieved [71] and noted that the Magistrate did not consider the appellant a reliable witness [71].

Grounds 10,11,12: *The Magistrate failed to properly comprehend the effect of the Parenting Orders and failed to properly assess the application considering the effect of the orders* (Appeal Failed).

The Magistrate erred in adopting the view that the Family Court orders meant the daughter could only have contact with her mother at her election, however he found this had no material effect on the judgement [83]. His Honour considered the appellant's conduct in the Family Court proceedings and reliance on Parenting Orders to justify approaching the aggrieved's house is oppressive and can inform the basis of future acts of domestic violence [87].

Grounds 14,15,16: The Magistrate Erred in finding she committed acts of Domestic Violence against the aggrieved (Appeal Failed)

His Honour conceded that while the aggrieved's children were the objects of the appellant's acts [103] they were still directed at the aggrieved as he lived in the house and was told he was the reason for the alienation between the appellant and her children through uninvited conversations [103]. Porter QC DCJ accepted the evidence that the appellant's conduct resulted in medical consequences for the aggrieved as he is on medication for blood pressure and stress since their separation [105]. His Honour rejected the appellants contention that the parenting orders meant she was entitled to seek contact with her daughter. He held that the contact, loitering and watching was domestic violence within the meaning of the DV act and therefore in breach of the law, despite the orders [109], [113].

Grounds: *The Magistrate erred in concluding an order was necessary or desirable to protect the aggrieved from domestic violence.*

Porter QC DCJ considered the history of Family Law proceeding justified the Magistrates conclusion that an order was necessary or desirable. He considered the appellants "unreasoned and dogmatic insistence of asserting her entitlements under those orders" demonstrated her lack on insight into her children not wanting to have contact with her [122]. His Honour held that the Magistrate was correct in concluding there is a high risk the appellant will commit similar acts if an order was not made [133]. He concluded it was evident the appellant had no insight into the suffering her conduct caused or the fact her children were determined to have no contact with her [134].