***CDX v Queensland Police Service* [2017] QDC 96 (5 April 2017) – Queensland District Court**

'Conflating factual issues' – 'Contravention of domestic violence order' – 'Exposing children' – 'Text messages'

Charges: Contravention of domestic violence order (DVO) x 1; Possess restricted items x 1; Possess explosives x 1; Assault or obstruct police officer x 1.

Appeal type: Appeal against sentence from Magistrates Court.

Facts: The appellant was subject to a DVO with the complainant named as the aggrieved ([12]). The appellant sent threatening text messages to the complainant, and took their child out of school ([12]). This formed the basis of Charge 1, contravening a DVO. When the police arrived at the appellant's house, he refused to cooperate, and appeared to reach for a knife while holding the child ([12]). This formed the basis of Charge 4, obstruct police officer.

The appellant was sentenced to six months' imprisonment with a non-parole period of two months ([1]).

Issues: The defendant appealed on the grounds that: the sentence was manifestly excessive; the Magistrate took irrelevant matters into consideration by relying on the documentation from the domestic violence order; the Magistrate fettered her objectivity; and the Magistrate conflated the facts of Charge 1 and Charge 4 ([2]-[3]).

Decision and Reasoning: The appeal was allowed. Horneman-Wren SC DCJ concluded that the Magistrate erred in conflating the factual issues in charges 1 and 4 ([42]). The other grounds of appeal were not made out. Horneman-Wren SC DCJ considered that a shorter sentence would have been appropriate, but since the appellant had been in custody for 7 weeks, his Honour recorded a conviction and did not further punish the appellant ([47]).