

***WJM v NRH* [2013] QMC 12 (3 May 2013) – Magistrates' Court of Queensland**

'Desirable' – 'Domestic violence order' – 'Family law' – 'Physical violence and harm' – 'Principle of paramount importance'

Proceeding: Application for a Protection Order under the *Domestic and Family Violence Protection Act 2012* (Qld).

Facts: This concerned a police application under the *Domestic and Family Violence Protection Act 2012* (Qld) (the Act) for a protection order against the respondent in favour of the aggrieved. After finding out that her husband had been having an affair, there was a violent incident between the aggrieved and the respondent. This involved the respondent punching the aggrieved extremely forcefully. The aggrieved had no family in Australia. The aggrieved and the respondent had taken steps to reconcile, including seeing a psychologist. The respondent had not yet seen a personal therapist to deal with anger management issues. The aggrieved claims to now feel supported by her husband and his family. She stated that if she feels scared she would move back home to China, and that making a protection order would not impact on how safe she feels.

Issue/s: Whether the protection order should be made.

Decision and Reasoning: The order was made. Contanzo JJ applied the principle of 'paramount importance that the safety, protection and wellbeing of people who fear or experience domestic violence is paramount'. His Honour found that it was 'desirable' to protect the aggrieved from the risk of further domestic violence by her husband. In making the order, his Honour noted the severity of violence used by the respondent – *'As a matter of logic and common sense, the more severe the violence exhibited by a perpetrator, the more risk there is that serious violence will be used again unless there has been an appropriate and sufficient intervention. The gravity of the situation is that the degree of violence used was inexplicable and irrational'* (See at [53]).

It was noted that this case involved balancing the public interest of preventing domestic violence with private rights in a marriage. In this case, would an order "get in the way" of the ongoing reconciliation by the parties?' (See at [20]).

His Honour concluded that the 'reduction of stressors on their relationship' had not gone far enough to negate the risk of further domestic violence. The aggrieved remained vulnerable to further domestic violence, though less vulnerable than she had previously. As such, even though the aggrieved did not feel she needed to be protected from her husband, it remained desirable that she be protected with an order. However, the order made went 'no further than is necessary for the purpose of protecting the aggrieved from the respondent' (See at [58]).