***R v Wilton* [2019] SASCFC 65 (13 June 2019) – South Australia Supreme Court (Full Court)**

'Adequacy of directions to jury' – 'Confessions and admissions' – 'Miscarriage of justice' – 'Property offences'

Charges: 1x aggravated serious criminal trespass in a place of residence, 1x theft.

Appeal type: appeal against conviction of above charges.

Facts: The appellant and the complainant were in a relationship and two children were born of that relationship. The appellant and the complainant had separated and there were family court orders allowing the appellant fortnightly access to the children and restraining him from being within 50 metres of the complainant's house. The appellant was found in the complainant's house in possession of various items belonging to the complainant. Upon the police's arrival, the appellant stated, "I fucked up" and begged the complainant not to press charges.

Issues: The appellant advanced two grounds of appeal; both grounds were considered together since they were intrinsically linked in both time and context ([42]). The appellant argued that the trial Judge failed to give adequate directions to the jury as to the use that could be made of the purported confessional statement "I fucked up" and the evidence of the appellant begging not to be charged ([3]).

Decision and reasoning: appeal dismissed.

To illustrate that the trial judge's directions were not deficient, Parker J first made two material observations of the trial proceedings. The first was that the trial Judge reminded the jury of the defence's submission that the appellant's remarks were potentially equivocal and couldn't be regarded as determinative ([47]). The second was that the trial Judge expressly stated that the use that could be made of the appellant's behaviour was entirely within the jury's discretion; it could be used for or against him, rejected in whole or in part, or attributed with different degrees of significance ([48]).

His Honour then referred to the observations of the High Court in *RPS v The Queen* to reflect the absence of any error in the trial Judge's directions. In the extract, the High Court stated that the facts are to be determined by the jury and the trial Judge may comment on the facts but often the safest course for a trial Judge will be to make no comment on the facts beyond reminding the jury of the arguments of counsel ([49]). In addition, for the same purpose, his Honour referred to similar observations made in *R v Golubovic* where it was pointed out that in trials such as the one at hand, there may be little need for the judge to identify the issue or explain the cases of the parties ([50]).

Collectively, these observations are said to point towards a key principle relevant to the appeal, that is, when considering the adequacy of the Judge's directions to the jury, it is important that the factual issues are few and not complex ([49]-[51]).

For these reasons, amongst others, his Honour deemed that it was unnecessary for the Judge to provide more elaborate directions in the terms suggested by the appellant (see [3]). The directions given by the Judge were viewed as sufficient to ensure the jury wasn't confused about the issues that needed to be determined ([53]).