

***Police v Peel* [2021] SASCFC 7 (5 February 2021) – South Australia Supreme Court (Full Court)**

‘Breach of suspended sentence bond’ – ‘Breach protection order’ – ‘Prosecution appeal against decision to allow appeal’ – ‘Protection order’

Charges: Several offences including contraventions of an intervention order and breach of suspended sentence bond.

Proceedings: Prosecution appeal against Supreme Court decision to allow respondent’s appeal against breach of suspended sentence bond: *Peel v Police* [2020] SASC 48 (7 April 2020).

Facts: The male respondent was convicted of several offences including contraventions of an intervention order protecting his female former partner. He was sentenced to 4 months and 15 days imprisonment, partially suspended on a good behaviour bond. The respondent breached the bond by further contravening the intervention order. The Magistrate declined to excuse the breach and revoked the suspension. A single judge allowed the respondent’s appeal.

Grounds of appeal: Whether “proper grounds” existed for excusing a failure to comply with a suspended sentence bond.

Held: The single judge below erred, but there was no utility granting permission to appeal or allowing the appeal in this case as the respondent had served the unexpired portion of the sentence.

Consideration of whether there are “proper grounds” involves “consideration of the nature of the breach and the circumstances in which it was committed, and of any disproportionality between the nature and extent of the breach and the severity of the consequence of revoking the suspension and requiring the original sentence to be served” (at [38]). Any history of similar offending may be relevant “on the basis that it informs a full understanding of both the seriousness of the breach offending, and of the circumstances in which, and reasons for which, the original suspended sentence was imposed and hence the proportionality or otherwise of revoking the suspension of that sentence”(at [44]).

The Magistrate was entitled to have regard to the respondent’s history of similar offending, which was a “relevant, and indeed quite significant consideration” in the context of the case, and the judge below erred in concluding otherwise (at [46]).