

***R v Saunders* [2017] SASCFC 86 (27 July 2017) – South Australia Supreme Court (Full Court)**

*Note this case was decided under now superseded legislation however the case contains relevant statements of principle.

‘Breach of bail’ – ‘Contravention of a protection order’ – ‘Damage to property’

Charges: Property damage x 1; Breach bail x 1; Contravening term of intervention order x 1.

Appeal type: Appeal against sentence.

Facts: The appellant went to the complainant’s residence, knocked on her bedroom window and then smashed the window by punching it ([10]). The appellant was subject a bail agreement and intervention order that prohibited him from approaching the complainant ([11]). The sentencing judge imposed a head sentence of 10 months and 22 days ([2]-[3]).

Issues: Whether the sentence was manifestly excessive.

Decision and Reasoning: The appeal was dismissed (see [29], [30] and [47]). Justice Stanley commented that ‘the very point’ of the appellant’s bail agreement and intervention order was that the complainant could feel safe and protected in her own home ([26]). His Honour emphasised that ‘the purpose of those instruments is to prevent acts of domestic violence which are often emotional and psychological as much as physical’ and which ‘can have profound consequences for the victim’ ([27]). Justice Hinton added that ‘it is important to the maintenance of confidence in the protection that intervention orders are intended to provide that the courts treat any breach as very serious’ (emphasis added), not only physical violence ([44]). The sentence was at the high end of the permissible range, but was not plainly wrong (see [28], [47]).