

***Police v Siasoi* [2014] SASC 131 (5 September 2014) – South Australia Supreme Court**

‘Certainty of terms’ – ‘Conditions of orders’ – ‘Contravention of intervention order’ – ‘Impact of breach on offender’ – ‘Interim intervention order’ – ‘Validity of terms in intervention order’

Charge/s: Contravention of intervention order.

Appeal Type: Appeal against conviction.

Facts: An intervention order was made in favour of the appellant’s former wife. The fifth term of the order prohibited the appellant from entering or remaining ‘in the vicinity’ of the property at which his former wife lived. The appellant formed a friendship with another woman who, by coincidence, lived quite close to his former wife’s home. After visiting this property, the appellant realised that there was a direct line of sight between the backyard of his friend’s property and his former wife’s property. There was no direct route of access between the houses, and they were not addresses on the same street. The distance between the two houses was measured to be 26 metres. He was convicted of breaching the fifth term of the order.

Issue/s: Whether the fifth term which prohibited the appellant from being ‘in the vicinity of’ specified premises was void for uncertainty and whether it was a valid exercise of power under s 12(1) of the *Intervention Orders (Prevention of Abuse) Act 2009* (the Act).

Decision and Reasoning: The appeal was upheld. The term was void for uncertainty and not a valid exercise of power under the Act. Peek J held that mandatory terms in intervention orders must be ‘clearly and specifically authorised by the words of s 12(1)’ (See at [18]). The terms of intervention orders can leave the affected person in no doubt as to the meaning and extent of the order. His Honour noted that the term ‘vicinity’ is inherently imprecise, which is in contrast to s 12(1) of the Act which requires that orders be specific and certain. Police do not have powers to insert ‘broad and vague terms’ (See at [28]) which gives them a right to use their individual opinions to determine in a particular case whether a contravention of the term has occurred.