

***Stone v Police* [2018] SASC 147 (27 September 2018) – South Australia Supreme Court**

‘Contravention of an intervention order’ – ‘Evidence’ – ‘Factors affecting risk’ – ‘Protection order’

Charges: Contravention of an intervention order x 2.

Appeal type: Appeal against conviction.

Facts: The appellant was convicted after trial of two counts of contravening a term of an intervention order. After finding the evidence of the protected persons to be truthful and accurate, the Magistrate recorded convictions and imposed a good behaviour bond for 12 months.

Issues: The appellant appealed the convictions on a number of grounds including that the Magistrate erred in admitting evidence of past discreditable conduct, applied the wrong onus of proof in relation to the charges, placed undue reliance on the credibility of the protected person, impermissibly relied on evidence of a charge that was dismissed in finding the appellant guilty of the two charges, wrongly regulated the cross-examination of the appellant, and that the evidence was insufficient to support the convictions beyond reasonable doubt.

Decision and reasoning: Kelly J dismissed the appeal on the following grounds:

- > The evidence of past discreditable conduct complained of was properly admitted.
- > The Magistrate applied the proper onus of proof in finding the charges proven.
- > The evidence was sufficient to satisfy the convictions.
- > The Magistrate made proper assessments of the witnesses at trial, as required, and was entitled to be satisfied beyond reasonable doubt as to the credibility of the protected person as a witness following his assessment of that person’s evidence.
- > The Magistrate did not rely on evidence relating to the dismissed charge in finding the appellant guilty of the two counts on which he was convicted.
- > The cross-examination of the appellant at trial did not go beyond the bounds of fair and proper cross-examination.