

***Coleman v Police* [2020] SASC 66 (30 April 2020) – South Australia Supreme Court**

‘Aboriginal and Torres Strait Islander people’ – ‘Appeal against conviction’ – ‘Miscarriage of justice’ – ‘Physical violence and harm’ – ‘Plea of guilty’ – ‘Withdrawal and restoration of plea’ – ‘Withdrawal of legal representation’

Offences: Assault x 1

Proceedings: Appeal against conviction.

Issue: Whether the appellant’s lack of legal representation when he entered guilty pleas amounted to a miscarriage of justice.

Facts: The appellant, an Aboriginal man, assaulted his female ex-partner by punching her three or four times in the face and throwing a shoe at her. He had been represented by different solicitors from the Aboriginal Legal Rights Movement in the Magistrates Court on at least four occasions with respect to the charge, but the matter had not been progressed. The appellant’s solicitor withdrew from the file after the appellant indicated in open court that he wanted to plead guilty and "get it over and done with" [6]. The Magistrate informed the appellant that she was "likely, potentially to impose a period of imprisonment as a penalty" [6]. She sentenced him to five months’ imprisonment and imposed an intervention order prohibiting him from contacting the victim, except for telephone or text contact for the purpose of child access arrangements. The appellant appealed on the ground that he had not been represented and therefore the Magistrate should not have accepted his guilty plea, and that the Magistrate misled him about the consequences that would flow from the pleas and induced the appellant to plead at the hearing.

Judgment: The judge dismissed the appeal, holding that there had been no miscarriage of justice due to lack of legal representation. The appellant understood the charges to which he was pleading, the Magistrate explained the seriousness of the offences and that the appellant was likely to receive a sentence of imprisonment, and the appellant volunteered his wish to plead [14]. The appellant had also been legally represented over the several months prior to the hearing and had accepted an opportunity to receive legal advice [20]. His Honour emphasised that the appellant was entitled to proceed unrepresented and that "the withdrawal of legal representation before the appellant entered his pleas is not, in isolation, a ground which can justify appellate interference" [20].

His Honour also held that there was no miscarriage of justice in respect of the appellant being induced to plea, because the appellant entered his pleas voluntarily, "free of any pressure or threat" [19].