

***Dawes v Coyne* [2000] WASCA 134 (19 May 2000) – Western Australia Supreme Court (Court of Appeal)**

‘Physical violence and harm’ – ‘Temporary protection order’ – ‘Violence restraining order’

Proceeding: Violence restraining order.

Appeal type: Appeal from decision of magistrate to place appellant on violence restraining order.

Facts: The female appellant and the male respondent had been in a relationship for six years. The appellant obtained an interim violence restraining order against the respondent. The respondent was subsequently charged with one offence of unlawful assault and four offences of breaching a violence restraining order. The magistrate dismissed the charge of assault and two charges of breach of the violence restraining order but convicted the respondent of two charges of breach. No penalty was imposed in respect of these breaches. Without warning, the magistrate also placed the appellant on a violence restraining order.

Issue/s: The magistrate erred in placing the appellant on a violence restraining order.

Decision and Reasoning: The appeal was allowed and the violence restraining order set aside. The magistrate’s actions were in every way a complete breach of the Act. The magistrate *‘gave no indication of what it was that he intended to do, failed to alert the appellant to the possibility that an order might be made against her, and made no invitation to her to respond in any way’* (See [10]).

Miller J also noted that the magistrate *‘started by stating that it was a tragedy that ‘domestic matters of this sort get into the criminal court’ and made the observation that ‘both parties had been causing trouble for the police who do not want to be involved in these sort of things’*. These observations were *‘entirely inappropriate’* (See [6]). See also *Pillage v Coyne* [2000] WASCA 135.