

***Labriola v Morgan* [2017] WASC 256 (30 August 2017) – Western Australia Supreme Court**

‘Animal abuse’ – ‘Breach of restraining order’ – ‘Control’ – ‘Domestic violence incident report’ – ‘Factors affecting risk’ – ‘Financial abuse’ – ‘Frequency of abuse’ – ‘Jealousy’ – ‘Risk assessment’ – ‘Stalking’ – ‘Strangulation’ – ‘Threats to kill’

Charges: Obstructing a police officer x 1.

Appeal type: Appeal against conviction.

Facts: The appellant was convicted of obstructing two police officers by resisting arrest ([2]). The appellant was arrested on suspicion of committing an offence by breaching a violence restraining order ([2]). The breach occurred when the appellant attended a dog training class when he allegedly knew the victim would be there ([56]). The victim later reported the incident and the incident was recorded with a Domestic Violence Incident Report (‘DVIR’):

- > ‘Prior family domestic violence incidents between the involved parties? Yes
- > Is the victim frightened? Yes
- > Is the abuse happening more often? Yes
- > Is the abuse getting worse? Yes
- > Financial issues? Yes (Issues surrounding the ownership of the two dogs)
- > Does the perpetrator try to control everything the victim does? Yes
- > Is the perpetrator excessively jealous? Yes
- > Does the perpetrator constantly text, call contact, follow, stalk or harass the victim? Yes
- > Has the perpetrator ever threatened to hurt or kill the victim? Yes
- > Has the perpetrator ever attempted to strangle/choke/suffocate/drown the victim? Yes
- > Other information: [the appellant] has grabbed [the complainant] by the throat in Dec 2014 and has tried to strangle one of the two dogs in the past’ ([57]).

Issues: One issue was whether the police could form a reasonable suspicion that the appellant had breached a violence restraining order by relying on a DVIR ([61](iv))

Decision and Reasoning: Justice Tottle concluded that the officer’s ‘suspicion of a breach of the order by the appellant was reasonable. The narrative section of the incident report read in the context of the DVIR section of the report (that is the allegation of breach assessed against what had allegedly taken place in the past) provide a basis for a suspicion that the appellant had breached the order’ ([70]).