

## ***Sturt v Ball* [2013] WASC 343 (9 September 2013) – Western Australia Supreme Court**

‘Breach of protection order’ – ‘Definition of ‘approach’ – ‘Protection order’

Charges: Breach of violence restraining order x 1.

Appeal type: Appeal against conviction.

Facts: The appellant was subject to a violence restraining order which provided that the appellant must not approach within 20 metres of the protected person ([4]). The evidence was that the protected person walked up to the appellant ([6]-[8]).

The magistrate convicted the appellant on the basis that even though the appellant did not ‘approach’ the protected person, it was incumbent upon the appellant to immediately walk away ([12]).

Issues: Whether the verdict was unreasonable and could not be supported.

Decision and Reasoning: The appeal was upheld, and the conviction quashed. Beech J held that the charge should have been dismissed once the Magistrate was satisfied that the appellant did not approach the protected person ([16]). The word “approach” should be construed in its ordinary meaning: “to come nearer or near to (someone or something) in distance or time” ([14]). An obligation to walk away from a protected person cannot be implied into a violence restraining order ([17]).