

## ***Cramphorn v Bailey* [2012] WASC 462 (30 November 2012) – Western Australia Supreme Court**

‘Breach of protection order’ – ‘Protection orders’ – ‘Self-represented litigant’ – ‘Whether police restraining order must be served on the protected person’

Charges: Aggravated assault x 1; Breaching a police order x 1.

Appeal type: Appeal against convictions.

Facts: The appellant was in a relationship with a Mr Michalaros. While driving her car, the appellant punched Mr Michalaros in the face. There was evidence that Mr Michalaros was the subject of a restraining order in favour of the appellant.

The police attended and issued the appellant with a police order, with one of the conditions to not contact Mr Michalaros for a 24-hour period. Mr Michalaros alleged that she sent him threatening text messages in breach of the order.

The appellant was convicted following a trial and was fined a total of \$1,300 and granted a spent conviction order.

Issues: Multiple grounds, including that the restraining order was invalid because the police did not serve Mr Michalaros with a copy.

Decision and reasoning: The appellant was a self-represented litigant. The judge rejected all grounds of appeal. In relation to the argument that the police order was invalid the judge stated:

It would be contrary to the purposes of the ROA (*Restraining Orders Act 1997 (WA)*) if the validity of an order depended upon service on the protected person. There could be circumstances where the police have grounds to issue a police order but where the protected person cannot be located or it is impractical to serve a copy upon him or her. Given the shortness of time for which such orders remain current and the urgent circumstances in which they must often be made, it would produce consequences that are contrary to the purposes of the ROA if an order only became effective when a copy was served on the protected person. This is a procedural requirement only and not one upon which the validity of an order depends.