# DISTRICT COURT OF QUEENSLAND

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| CITATION: | *Reid v Queensland Police Service* [2020] QDC 340 |
| PARTIES: | **ALEXANDER RONALD REID**<br>(Appellant)<br>**v**<br>**QUEENSLAND POLICE SERVICE**<br>(Respondent) |
| FILE NO/S: | Appeal No 134 of 2020 |
| DIVISION: | Criminal |
| PROCEEDING: | s. 222 Appeal |
| ORIGINATING COURT: | Magistrates Court, Cairns |
| DELIVERED ON: | 30 November 2020 (*ex tempore*) |
| DELIVERED AT: | Cairns |
| HEARING DATE: | 30 November 2020 |
| JUDGE: | Farr SC DCJ |
| ORDER: | **Appeal dismissed.** |
| CATCHWORDS: | CRIMINAL LAW – APPEAL PURSUANT TO THE *JUSTICES ACT 1886* s 222 – APPEAL BY WAY OF REHEARING – where the appellant was convicted of the offence of riding a bicycle without an approved safety helmet in the Cairns Magistrates Court on the 23 July 2020 – where the appellant was fined $121 – appeal against conviction pursuant to s 222 of the *Justices Act 1886* – where the appeal is by way of rehearing – where the Court is required to assess and consider, for itself, the evidence that was placed before the Court below – where error in the *House v King* sense, on the part of the learned magistrate, is relevant but not essential for a successful appeal – where the appellant submits the legislation is unlawful – where the respondent submits the appellants submissions are irrelevant. |
| LEGISLATION | *Justices Act 1886* s 222 |
| AUTHORITIES | *House v The King* (1936) 55 CLR 499 |
| COUNSEL: | Appellant self-represented.<br>E Coker for the respondent |

SOLICITORS: Appellant self-represented.
Director of Public Prosecutions (Qld) for the respondent.

[1] The appellant was convicted in the Cairns Magistrates Court on the 23rd of July 2020 of the offence of riding a bicycle without an approved safety helmet. He was convicted of two other offences, as well, but those offences do not form part of the appeal today. He was fined $121 for the offence in question. He has appealed against his conviction pursuant to section 222 of the Justices Act 1886. His sole ground of appeal reads:

> *"Manifestly unjust finding. Professional medical and legal advice is suggesting these helmets are not suitable for safe use outdoors. In order to enforce the law, police break a more serious piece of legislation, causing fear and subjecting children to UV."*

[2] An appeal, pursuant to section 222 of the Justices Act, is by way of rehearing under that Act. Such a hearing requires this Court to assess and consider, for itself, the evidence that was placed before the Court below, and arrive at its own conclusions. Error in the *House v the King*[1] sense, on the part of the learned magistrate, is relevant to such a hearing, though strictly speaking, is not essential as a pre-requisite for a successful appeal. Absence of such error is, however, a relevant consideration in the assessment which must be conducted by this Court.

[3] In this matter, the facts are not disputed, and I have observed no error on the part of the learned magistrate in the conduct of the hearing below, nor in her reasons for her decision and in the decision itself. The appellant was found guilty on the following facts, which I take from a summary by the learned magistrate on the record below, at page 2, line 16 to 26:

> "*The Prosecution gave evidence through police officer Senior Constable Geozenie, who gave oral evidence, and also through him, tendered a copy of CCTV footage from his body worn camera. Mr Reid does not dispute the facts of what occurred on that day, leading to these charges. What happened was that the police officer stopped him whilst he was riding his bicycle, and spoke to him about the fact that he was not wearing an approved helmet. The*

[1] (1936) 55 CLR 499.

*discussion commenced amicably, but then sadly deteriorated. The officer asked Mr Reid repeatedly, to get off his bicycle and walk home. He resisted and attempted to ride away on the bike. He was physically stopped from doing so, by the police officer, at which stage he became quite abusive and aggressive, yelling profanities at the police officer. There were clearly other persons in the vicinity who would have seen and heard this behaviour*."

[4] No dispute as to the accuracy of that summary has been alleged. The appellant's defence at his trial was of the same nature as the argument that he has presented at the appeal here today, and in his written outline of submissions. That is, that the bicycle helmet did not provide adequate sun protection, and that, therefore, the legislation is unlawful.

[5] Now, as I have indicated, this was a defence that was – well, an argument that was rejected by the learned magistrate. In summary, the appellant submits that the following features are relevant as to why the riding of the bicycle without an approved safety helmet is inappropriately legislated:

> "1. more deaths are suffered by other road users than bicycle riders;
> 2. skin cancer causes more deaths a year than bicycle incidents;
> 3. people who take part in other dangerous activities, such as boxing, by way of example, are not required to wear a helmet;
> 4. the requirement to wear a helmet deters people from riding a bike, which can result in a reduced participation rate in that activity, and can contribute to the obesity crisis, as well as cause financial burden, which, in turn, leads to domestic violence, self-harm, higher suicide rates and rising violent crime;
> 5. it is submitted that the Queensland Government has made a biased decision to implement the law due to a conflict of interest, and as I understand the submission, that was made today, it is submitted that the government is simply trying to increase its shareholders in helmet manufacturing in China;
> 6. section 326 of the Criminal Code is contravened as a bicycle helmet does not provide protection against exposure for children outdoors during daylight areas;

7. the enforcement of wearing a bicycle helmet is inconsistent with the Workplace Health and Safety Act 1995."

[6] Now, as I have read the transcript of the hearing below, a hearing at which the appellant did give evidence, these submissions are consistent with the submissions that were made in that Court. It is, effectively, submitted by the appellant that the law is unenforceable, or should be unenforceable for those reasons. It has been submitted on behalf of the respondent, though, that these submissions are irrelevant to the determination of this matter, and that the argument presented by the appellant does not provide any lawful excuse or defence to the charge in question.

[7] The appellant has further submitted today from the bar table, that the legislation in question is overridden by common law rights, although no identification of such rights has been placed before the Court. The appellant submits that, really, it is an act of reckless disregard to force a person to wear what he describes as a poorly designed safety device, outdoors. And he submits that the placing of a person in danger by forcefully acting with a bias, disregarding health facts, amounts to maladministration.

[8] The respondent has, in the course of its outline of submissions, identified that the appellant has appeared before a number of Courts in the past, arguing, effectively, the same point, unsuccessfully. I will not detail those particular matters. But the simple fact of the matter is that the appellant has not identified any lawful justification, authorisation or excuse to the charge in question. I note that the Workplace Health and Safety Act can have no application in this matter. It is not suggested that this was something which occurred in the workplace. And whilst the appellant undoubtedly strongly believes his position insofar as his conclusion regarding the safety or utility of bicycle helmets is his honest view, ultimately, this is an inappropriate forum for that argument. This Court must apply the law as it applies in the state. The law in the state is quite clear, and there is, in reality, no dispute as to the existence of the law or its requirements.

[9] Ultimately, no proper basis for successful appeal has been placed before this Court. As I have already indicated, I can see no error on the part of the learned Magistrate and the Court below, and the conviction that was recorded in that Court was properly based upon the evidence that was placed before the Court at the time. In fact, the learned

Magistrate on the law, really had no discretion to do other than that which she did, and that is to find the defendant guilty of the charge in question. For those reasons, this appeal has no merit whatsoever, and the appeal is dismissed.