



For a Better Result.....

Be Careful of Representing Yourself

In a recent appeal of Dawson v. Commissioner of Police [2015] QDC295, a motorist became unstuck when he attempted to appeal the decision of a Magistrate who found him guilty of speeding.

At the Trial, he attempted to lead evidence that he sped due to “extraordinary emergency”.

It was not a dispute that he travelled at a speed of 68Km/h where the speed limit was 50km/h. Mr Dawson submitted that his speed increased due to a steep decent and there was no warning sign about that. He said it was inappropriate for police to be operating a speed camera at the bottom of such a slope.

Mr Dawson said that the vehicle he was driving (a Kia Sportage) was unstable because of its high centre of gravity and that it was difficult to handle even on a straight road. He said that as he descended the steep decent, he tried to apply his brakes but there was risk of his wheels locking up which would have put the vehicle at risk of rolling over or colliding with another vehicle.

Not surprisingly, this evidence was rejected at the hearing before the Magistrate.

The argument was enlivened at the appeal.

Essentially on appeal, the Court said that for extraordinary emergency under *Section 25 of the Criminal Code* to apply the accused person must act with the intention of avoiding greater harm and that there was no alternative open to him.

The Judge in the Appeal Court found that there was nothing about the road which was in any way sudden or extraordinary. The Magistrate was correct to reject the argument of extraordinary emergency. Further, the Court accepted that to exclude the defence of extraordinary emergency it was necessary to be satisfied beyond reasonable doubt that no ordinary person acting reasonably would have acted as the appellant did.

Accordingly, the appeal was dismissed. If however, Mr Dawson had obtained appropriate advice at the time, he would have been advised as to the above and the futility of his appeal.

For more information about your licence, please contact *Robert Bakker*

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