



Recent Decision Bulletin

Drive Without Due Care

The District Court recently in the decision of *Brown v Commissioner of Police [2015] QDC 227* overturned a conviction for driving without due care.

In this case, the learned Magistrate found the Defendant guilty of driving without due care. He was the rider of a motorcycle which passed a vehicle on the left but outside of a turning lane, and upon completing his maneuver collided with another vehicle that was turning at an intersection.

Whilst it was probable that the Defendant's riding of the motorcycle was the cause of the collision, it was noted by the Court that this is not enough to establish proof of driving without due care and attention.

The Court said that the fact that a collision occurred did not mean that the offence had been committed. The focus of the Court should be on the Defendant's driving rather than the consequences of it.

It was also discussed that even if the motorcycle rider had been speeding, which was a breach, and that he had completed his overtaking maneuver beyond the edge of the merge lane which was also a breach, this still did not of itself establish proof of driving without due care and attention.

The Court considered further the evidence of witnesses who were called, some of which contradicted other evidence.

The Crown's case was that the motorcycle rider drove without due care and attention by overtaking the vehicle on the left, at a point and at a speed which effectively deprived him of reasonable opportunity to observe and to react to what was occurring in the intersection. However, the Court was not satisfied that proof beyond reasonable doubt had been established at the trial and so because there was reasonable doubt, acquitted the Defendant and entered a plea of not guilty.

Should you require any information or advice about such matters, please do not hesitate to contact **rb lawyers**

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