



Recent Decision Bulletin

Prominent Barrister Found Guilty of Speeding

Followers of our blog will recall our commentary on the case of prominent QC Tony Morris who was charged with speeding.

The circumstances of the case were that his wife was driving the vehicle and travelled at a speed (57km/h) in a 50km/h zone.

However, Mr Morris was not the driver of the vehicle, being only the owner. As the speed was detected by a photographic detection device, he could have notified the Department that his wife was the driver by way of a nomination form, but chose not to due to the principle identified in **Kable v. Director of Public Prosecutions (1996) 189 CLR 51.**

This decision resulted in a case stated by way of Agreement to the District Court. The case was removed to the Court of Appeal of Queensland and heard and determined last year with the decision delivered which resulted in an unsuccessful case for Mr Morris.

Accordingly, Mr Morris' argument in the Court of Appeal concerning Kable was unsuccessful and so the matter came back on before the Magistrate to determine whether he was guilty of speeding.

Not being one to give up, Mr Morris then argued at the Trial in the Magistrates Court, that he had a Defence available to him under *Section 23 of the Criminal Code* i.e. that he was not criminally responsible for *"an act or omission that occurs independently of the exercise of the persons will"*.

He argued that he could not be liable for speeding as he did not speed and so he could not be liable for an act that occurred *"independently of the exercise of the persons will"*.

In support, he argued that it is a Defence to a charge of dangerous driving that a person who is asleep does not commit a voluntary act and so is not guilty of such an offence.

Unfortunately, the Senior Magistrate, Judge Rinaudo did not accept Mr Morris' argument and summing up the decision in a nutshell, His Honour said;

"The legislation makes it plain, if you are the owner and not the driver then provide the declaration otherwise the owner is liable."

We must wonder now whether Mr Morris will pursue the matter by way of a further Appeal or whether he is happy to let the matter rest.