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Makes New Laws Concerning Forfeiture of Vehicle

In the matter of *Erasmus v Queensland Police Service*, the de facto partner of a repeat, unlicensed driver successfully applied to the Court for an order for the return of a vehicle that have been forfeited to the State due to the offender's repeat offending.

The case dealt with the interpretation by the Court of section 123 of the Police Powers and Responsibilities Act. There have been no previous reported decided cases in relation to this section of the Act which requires that in order for an applicant to succeed in obtaining an order that he or she must establish:

1. A "genuine interest" in the vehicle and;
2. That the happening of the offence occurred without his or her knowledge or consent.

In this case, the offender had driven the Ford vehicle a short distance without any knowledge on the part of the applicant. This was not in contest.

The applicant also asserted that as the de facto partner of the offender, she had an interest in the vehicle. She also stated that the vehicle had been given to her for her to use solely to drive to and from work and to perform other family duties.

It was argued before the Court that the gift and the de facto status of the parties ensured that the applicant had a "genuine interest" in the Ford.

The matter was opposed by Police who did not consider this to be sufficient.

The Magistrate in making her determination accepted that although some evidence was lacking in relation to the de facto status of the parties, the car had been given to the applicant for her use and she was the sole driver of it and needed the car to get to and from work and to perform other household duties.

As the result, she had a "genuine interest" in the vehicle and so a suitable order was made in her favour. We see this as a significant victory as innocent parties should not be prejudiced by the actions of those who are repeat offenders, especially when an asset as considerable as a motor vehicle is at stake.

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