

## ***R v Andres* [2015] QCA 167 (11 September 2015) – Queensland Court of Appeal**

‘Circumstantial evidence’ – ‘Intent’ – ‘Murder’ – ‘Physical violence and harm’ – ‘Self-defence’ – ‘Whether guilty verdict unreasonable’

Charge/s: Murder.

Appeal Type: Appeal against conviction.

Facts: The appellant was convicted by a jury of the murder of his wife. His version of events included, (among other things) the contention that the deceased had injured him with a fork and he was placed in fear of his life. (See at [4]-[113]). It is unclear whether at the time of the offence, there was a current or lapsed protection order against the appellant in favour of his wife.

Issue/s: The appellant admitted that he had caused his wife’s death, but maintained that he did not have the requisite intention to prove murder. As such, the question for the Court was whether on the whole of the evidence it was open to the jury to be satisfied beyond reasonable doubt that the accused was guilty. More specifically, the issue was whether the accused had the requisite intention to prove murder. Also at issue was whether he had killed his wife by accident or in self-defence.

Decision and Reasoning:

The appeal was dismissed, with the Court finding that a guilty verdict was open to the jury on the evidence. Boddice J, (with whom Morrison JA and Carmody J agreed), found that the only evidence to support the conclusion that the death occurred by accident or in self-defence was the appellant’s own evidence, which lacked probative force. This was because, among other things, the appellant admitted he had deliberately lied and changed his story, and he had dissolved the deceased’s body in acid, which made it difficult to determine the cause of death. While the case was wholly circumstantial, it was noted that intent can be proved by inference, by considering the probative value of the evidence as a whole.