DISTRICT COURT OF QUEENSLAND

CITATION:	*Woodhead v Commissioner of Police* [2023] QDC 143
PARTIES:	**STEPHEN ANGUS WOODHEAD** **(appellant)** **v** **COMMISSIONER OF POLICE** **(respondent)**
FILE NO/S:	D49/23; D50/23
DIVISION:	Appellate
PROCEEDING:	Appeal against conviction
ORIGINATING COURT:	Magistrates Court Maroochydore Magistrates Court Caloundra
DELIVERED ON:	9 August 2023 (ex-tempore)
DELIVERED AT:	Maroochydore
JUDGE:	Cash DCJ
CATCHWORDS:	CRIMINAL LAW – APPEAL AND A NEW TRIAL – PARTICULAR GROUNDS OF APPEAL – where the appellant was charged with driving without due care and attention – where the appellant was also charged with failing to keep left of a sign – where the appeal is against convictions being recorded in both instances – where the ground of appeal advanced by the appellant is "error in fact, error in law" – where the appellant fails to provide any relevant evidence – where the appellant claims to have two legal personalities.
ORDERS:	**(1) Each of the appeals are dismissed.** **(2) The appellant is to pay the costs of the respondent, fixed in the amount of $1,800.**
APPEARANCES:	The appellant appeared on his own behalf M O'Brien instructed by the Queensland Police Service Legal Unit for the respondent

[1] HIS HONOUR: The appellant was charged that on 8 October 2022 at Pinbarren, he drove a vehicle on Pomona Kin Kin Road without due care and attention. On 30 March 2023, he appeared before a Magistrate at Maroochydore. At the beginning of the hearing, the appellant admitted he was the driver of the car subject of the alleged offence. The Magistrate took considerable care and effort to explain to the appellant who was, and still is, representing himself the procedures relevant to the trial. The appellant acknowledged that he understood what the Magistrate had explained.

When the appellant sought to refer to a document he claimed to have filed in the Court, the Magistrate courteously and politely explained the document was not in evidence at the trial. The appellant seemed to have placed before the Magistrate the document which he referred to as an "affidavit of facts". The Magistrate noted the document seemed to address arguments that the Magistrates Court, operating under the law of Queensland, could not entertain.

[2] The Magistrate then asked the appellant to enter his plea. When the appellant declined to enter a plea, the Magistrate recorded on his behalf a plea of not guilty. The appellant ignored the Magistrate's attempts to focus on the trial and persisted with unhelpful references to Commonwealth legislation of no relevance. The Magistrate proceeded to hear the Prosecution witnesses, correctly declining to admit into evidence the appellant's affidavit. A police officer gave evidence first. His evidence-in-chief was to the following effect.

[3] On 11 October 2022, three days after the offence, the police officer spoke to a Mr Weller. Mr Weller provided the police officer with two videos showing the car the appellant admitted to driving following and then overtaking a truck. The videos were apparently recorded from a car following the one driven by the appellant. In the first video, the appellant is shown driving behind the truck as it negotiates its way up a steep and winding road. The second video shows the appellant overtaking the truck by crossing double white lines onto the wrong side of the road. This part of the road curved significantly and did not appear to allow for good forward visibility. I note that during the police officer's evidence the appellant frequently objected on the basis that the trial was unlawful because the charge had already been dismissed. These objections were without foundation and were correctly ignored by the Magistrate. After speaking to Mr Weller, the police officer spoke to the appellant, the registered owner of the car shown in the videos. The appellant admitted to the police officer that he was driving the car at the time of the videos, but he asserted the "Traffic Act" was not good law because it had not been given assent and, in any event, the law did not apply to him as he was on what he called a "private journey".

[4] There was some cross-examination by the appellant about whether he was following the truck too closely. The appellant concluded his cross-examination with the statement that "the time and opportunity for the Prosecution to present evidence" had passed and he asked for the charge to be dismissed. This too was ignored by the Magistrate, who was right to do so. Mr Weller then gave evidence. He said that on 8 October 2022, he was driving on the Pomona Kin Kin Road when a silver-grey Toyota came "flying up behind me at great pace" and tailgated. The car passed Mr Weller, crossing double white-lines then pulled in behind the truck. Mr Weller activated his in-car camera, recording the videos that had been played. These were tendered.

[5] In cross-examination, Mr Weller was asked about the recording of the videos. He said they were made on his mobile phone, which was in a mount on the dashboard. Mr Weller said he touched the phone to begin the recording. The appellant, strangely given his apparent assertion that the traffic laws were invalid and of no application, put to the witness that what he had done was illegal. There was no other relevant cross-examination. The Prosecution case closed, and the appellant indicated he did not wish to testify or to call witnesses.

[6] After hearing submissions from the Prosecutor, the Magistrate received the appellant's "affidavit of facts" as if it were written submissions. It was marked as an

exhibit. I note the Prosecutor objected to the receipt of the document, but the Magistrate showed appropriate latitude to the self-represented appellant and considered its contents so far as they were relevant. Orally, the appellant addressed brief submissions about whether Mr Weller's evidence of tailgating should be accepted. The rest of his submissions raised the all-too-common nonsense claims that the defendant was possessed of dual legal identities and that he had not consented to the application of the law.

[7] The brief reasons of the Magistrate correctly identified the elements of the offence. The Magistrate accepted Mr Weller's evidence, noting it drew support from the uncontested video recordings of the appellant's driving. He found that the appellant tailgated Mr Weller, passed him by crossing double lines, and passed the truck in the same manner. This was sufficient to prove beyond reasonable doubt the appellant drove without due care and attention. The appellant was convicted and fined $600. By a notice of appeal filed the same day as the hearing before the Magistrate, the appellant challenged his conviction on the stated grounds of "error in fact, error in law". The notice of appeal contains no further explanation or detail of the alleged errors. This is appeal file 49 of 2023.

[8] Material filed by the appellant in the appeal, though substantial in nature, sheds no further light on how he says the trial miscarried. What I have assumed to be his written submissions concerning the appeal contain some breathtakingly wrongheaded assertions. Outside of the usual pseudo-law nonsense, the appellant cherry-picks from irrelevant and inapplicable material. For example, a report from the Australian Law Reform Commission. Another is the extraordinary assertion that:

> On the 1st of July 2023, the National Anti-Corruption Act 2022 comes into force. Every Australian is now entitled to ask for and get a jury trial in every matter, civil or criminal, and it is corruption to refuse in either a state or federal Court. This is because in 1995 the "Kable principle" was argued in the High Court and became common law in 1996. The Kable principle is that no state can make a law contradicting section 79 Constitution and no state can make a law discriminating against a subject of the King, and in any criminal matter, the common law standard must apply.

[9] It is a curious submission to make, not least of which because section 79 of the *Constitution* is a provision concerned with the number of judges of a Court exercising federal jurisdiction. Perhaps it was intended the reference be to section 73 or 71 of the *Constitution* or section 79 of the *Judiciary Act*. In any event, any citizen capable of reading who looks either at the *Constitution* or the decision of the High Court in *Kable* would immediately understand they provide no support for these outlandish claims.

[10] Further claims made by the appellant in his speech in Court sought to maintain the discredited fiction that he is somehow not the appellant or not the person who committed the traffic offences because he has dual legal personalities. This was an idea I rejected and still reject (see *R v Sweet* [2021] QDC 216). There were the further usual references to equity and trusts. It was impossible to comprehend much of the speech. The suggestion that statute law is without a source of authority is, of course, entirely misconceived. In the late 19th century and early 20th century, some of the people of Australia came together to form the Commonwealth. Notably, Aboriginal Australians were excluded from that process. By common consent, the participants in the process created a source of authority: the Constitution of the Commonwealth of Australia. By section 4, State Parliaments are authorised to make

law and it is pursuant to this authority that Queensland has the power to make laws for the "peace, welfare and good government" of the state. The laws contravened by the appellant are part of the valid laws of this state (see, generally, *Hubner v Erbacher* [2004] QDC 345).

[11] Not for the first time, I am moved to observe that it is sad to see a person such as the appellant, who is seemingly capable of industry and thought, diverting his time and effort in the fruitless pursuit of ideas promoted by charlatans, fraudsters, crackpots and racists. There exists in Queensland a recognised body of statute and common law. As a society, we have developed techniques and processes for interrogating and developing that law. Those who wish to stand outside that law and ignore long recognised processes must realise they bear the onus of rationally explaining why these almost universally accepted understandings are wrong. Until such time, the claims of such people will continue to be summarily dismissed.

[12] The one matter the appellant identifies which, if made good, might indicate error in the hearing at first instance, is his claim of bias on the part of the Magistrate. The appellant correctly identifies the relevant legal principles, but having read the transcript of the hearing, there is no doubt in my mind that the Magistrate was perfectly fair. The appellant's suggestion in his written material that he might, on the appeal, call witnesses to offer their opinions about the conduct of the Magistrate is so misguided as to require no rebuttal. Having considered all the evidence before the Magistrate, I am satisfied there was no error in the proceeding below and, further, that there is no doubt at all about the guilt of the appellant. The appeal in 49 of 2023 is dismissed.

[13] The appellant has a second appeal, file 50 of 2023, in which he advances the same fundamentally flawed arguments. This matter concerned a conviction for an offence of failing to keep left of a sign at Glass House Mountains on 1 July 2022. The charge was heard by a Magistrate at Caloundra on 27 March 2023. The appellant conducted himself in much the same manner as I have outlined in relation to his other appeal. That is, he claimed the charge had already been dismissed. The Magistrate rejected this argument and treated the appellant as if he had entered a plea of not guilty. Evidence was called from two police officers who were together in a car on Coonowrin Road on 2 July 2022. They saw a white van turn right into Fullerton Road by driving to the right of the concrete dividing strip, onto the wrong side of the road, contrary to a "keep left" sign. The police intercepted the van and spoke to the appellant, who was the driver. The appellant was issued with an infringement notice.

[14] The appellant did not challenge the evidence of the police officers and chose not to give evidence. The appellant's submissions before the Magistrate referred again to a so-called "affidavit of facts" and was replete with meaningless legal-sounding phrases, such as "permanent and irrevocable estoppel by acquiescence" and references to trusts, contract, joinder and consent. The obvious irrelevance of such matters to a criminal prosecution in the Magistrates Court is perhaps why the appellant made no attempt at all to explain why they justified the dismissal of the charge. Inevitably, the Magistrate convicted the appellant, and he was fined $201. The transcript of the hearing reveals there was no error of fact or law and that the evidence overwhelmingly proved the guilt of the appellant. This appeal must be dismissed as well.

[15] In each of the appeals 49 and 50 of 2023, the appeals are dismissed, and the appellant is to pay the costs of the respondent fixed in the amount of $1800.