

Redfern Legal Centre



Media Release

Monday 20 November 2017 | FOR IMMEDIATE RELEASE

Offensive language arrest found to be unlawful; court rules that police provoked student with “unjustified interference with civil liberties”

The District Court has today held that an arrest for the statement “none of your fucking business” was unlawful, because the police failed to consider any alternatives to arrest. The judge also found that a second arrest during the same incident was provoked by a police officer’s “protracted and unjustified interference with civil liberties,” and was also unlawful.

“This case represents an important point on civil liberties,” RLC’s police powers solicitor, Sophie Parker said. “Police should not be making arrests for offensive language, particularly where that language is directed only at police.”

On 14 July last year, Mr Black, a 28-year-old student at the time, was walking home from TAFE via a residential street. He was wearing a backpack and a black hoodie, when he was stopped by police. Without giving Mr Black any reason for being stopped and questioned, the police officers insisted that he explain who he was and why he was in the area.

Mr Black refused to answer police questions and insisted that he be told why he was being stopped. After being asked several more times, Mr Black eventually answered by saying “None of your fucking business”. Mr Black was placed under arrest for offensive language.

A short time later, Mr Black was “unarrested” after the police officer himself used the word “fucking”. Mr Black was then detained for a further period of time and subjected to a search. After being told he was free to go, Mr Black allegedly committed a further offensive language offence for which he was ultimately issued with a criminal infringement notice.

In his decision, Judge Scotting found both the arrest and the search unlawful and stated that it was this “protracted and unjustified interference with [Mr Black’s] civil liberties that ultimately culminated in the offence being committed”.

Ms Parker said that the case sets an important precedent that will hopefully deter police from making unnecessary arrests in similar circumstances in the future.

Although Mr Black is not Aboriginal, Aboriginal and Torres Strait Islander people are significantly over-represented in offensive language cases and offensive language often forms part of the “trifecta” of offences which can result from unwarranted police contact. Ms Parker said, “The way in which this situation quickly escalated is also a good example of how an unnecessary arrest for offensive language can lead to further more serious charges.”

Sophie Parker, RLC Police Powers Solicitor, is available for comment. To arrange an interview contact:
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