

## Resisting a conviction being recorded: Think through your arguments

Below is an extraction of the considerations in both the Legislation and Case Law your lawyer will have when approaching how to convince the court a conviction should not be recorded against you if that is a relevant consideration. Some of, all of or none of the considerations below might be helpful when crafting submissions.

Statutory – Section 12 of the Penalties and Sentences Act		Comments / Notes / Arguments
12(2)(a)	The nature of the offence	
12(2)(b)	The offender's character and age	
12(2)(c)(i)	The impact that recording a conviction will have on the offender's economic or social wellbeing	
12(2)(c)(ii)	The impact that recording a conviction will have on the offender's chances of finding employment	
Statutory – Section 11 of the Penalties and Sentences Act		Comments / Notes / Arguments
11(a)	The number, seriousness, date, relevance and nature of any	

	previous convictions of the offender	
11(b)	Any significant contributions made to the community by the offender	
Notes from the Case Law		Comments / Notes / Arguments
<i>R v Briese; ex parte Attorney-General</i> [1998] 1 Qd R 487	Whether violence was used and if so to what extent	
	Whether there was exploitation or abuse of trust	
	The extent of economic loss to the victim	
	The extent to which the circumstances of the offence suggest a propensity to offend or a risk that if given an opportunity, the offender may re-offend	
	That prejudice may result in the offender being continually punished in the future in a way not commensurate with the punishment which is just for the	

	offending. It might also stand in the way of rehabilitation, particularly by making it difficult for an offender to obtain employment	
<i>R v ZB</i> [2021] QCA 9	Is the community better served by being made aware of the conduct of the defendant, giving vindication to the community for its trust in order according to law or does the sentencing judge see the greater benefit to the community by not placing obstacles in the way of rehabilitating an offender?	

**If you have been charged and are facing a court, always see a lawyer for advice that is tailored to your unique situation because this is not legal advice and should not be relied upon in place of seeking legal advice.**

## Our lawyers who can help you in court



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