

QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL

CITATION: *NRM v Director-General, Department of Justice and Attorney-General* [2024] QCAT 157

PARTIES: **NRM**
(applicant)

v

DIRECTOR-GENERAL, DEPARTMENT OF JUSTICE AND ATTORNEY-GENERAL
(respondent)

APPLICATION NO/S: CML327-22

MATTER TYPE: Childrens matters

DELIVERED ON: 12 April 2024

HEARING DATE: 28 February 2024

HEARD AT: Brisbane

DECISION OF: Member Gardiner

ORDERS: **The decision of the Director-General, Department of Justice and Attorney-General that the Applicant’s case is “exceptional” within the meaning of s 221(2) of the *Working with Children (Risk Management and Screening) Act 2000 (Qld)* is confirmed.**

CATCHWORDS: ADMINISTRATIVE LAW – ADMINISTRATIVE TRIBUNALS – QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL – review of decision by respondent to issue a negative notice

FAMILY LAW AND CHILD WELFARE – CHILD WELFARE UNDER STATE OR TERRITORY JURISDICTION AND LEGISLATION – OTHER MATTERS – blue card – where a negative notice was issued – application for review – where applicant holds beliefs of sovereign citizen – where applicant has history of criminal convictions and domestic violence breaches) – where Tribunal confirmed decision to issue a negative notice

Working with Children (Risk Management and Screening) Act 2000 (Qld) ss 6, 221, 226, 354, 360
Queensland Civil and Administrative Tribunal Act 2009 (Qld) s 20

CW v Chief Executive, Public Safety Business Agency

[2015] QCAT 219

Re TAA [2006] QCST 11 (26 June 2006)

APPEARANCES &
REPRESENTATION:

Applicant: Self-represented

Respondent: Ms C Davis

REASONS FOR DECISION

- [1] NRM describes himself as a man and uses a single name as the name he is known by “M”. In his view, he is not the individual whose name is NRM, but he agrees that he as a man was responsible for filing a review of a decision by the Director-General, Department of Justice and Attorney-General under the *Working with Children (Risk Management and Screening) Act* 2000 (Qld) (the “WWC Act”) on 24 October 2022 to issue a negative notice and not issue NRM with a blue card.
- [2] NRM holds a system of beliefs that loosely accords with a group of people who are collectively identified as “sovereign citizens”. M objects strongly to this title and although he does not himself associate with the larger group, many of his beliefs reflect the beliefs of this group.
- [3] As I understand M from his filed material and his answers during the hearing his views, though ill defined, are generally as follows:
 - (a) M the man is a different individual to a non-physical legal person who is NRM.¹
 - (b) The Government (or other authorities) has authority over NRM but not over M, who is subject to common law only.
 - (c) Transactions between authority and the individual are basically merchant arrangements based on implied contracts.
 - (d) This contract is evidenced in part by the “fee schedule” provided by M during these proceedings.²
- [4] M told the Tribunal that he did not actually want a blue card to be issued to him. He wishes to volunteer at his son’s school and the restrictions placed on him by the negative notice he received prevent this.
- [5] M told the Tribunal that the WWC Act does not apply to him, the man. He concedes it applies to NRM but that individual is not him. He does however want the current restriction lifted so that he can volunteer and for that reason he is proceeding with the review application. The logic of this reasoning is not immediately obvious.
- [6] This is not an appeal decision, but a review. QCAT can review a decision to issue a negative notice under the provisions of the WWC Act.³ Under the *Queensland Civil and Administrative Tribunal Act* 2009 (Qld) (QCAT Act), this hearing is a fresh

¹ Referred to in some writing as “the Strawman” concept

² Exhibit 12

³ *Working with Children (Risk Management and Screening) Act* 2000 (Qld); s 354.

hearing with the purpose of producing the correct and preferable decision on the evidence before the Tribunal.⁴

- [7] The paramount consideration is the welfare and best interests of children.⁵ The central focus of the Act is the protection of children. It is not intended to impose additional punishment on a person but rather is intended to put gates around employment to protect children from harm.⁶
- [8] M was charged in 2002 with possession of a prohibited weapon without approval. The ensuing order of the Magistrate's Court was discharged after a diversion was completed. In 2013 M was convicted of careless driving a motor vehicle without due care and attention and was fined.⁷ In 2015 M was convicted of driving a motor vehicle over mid the alcohol limit⁸ and was again fined and disqualified from driving for a period of five months.
- [9] M was convicted in 2015 in the Magistrates Court of possession of dangerous drugs and utensils. No conviction was recorded and a fine was imposed. M was further charged with contraventions of a Domestic Violence order in March 2016 but no evidence was offered to that charge.⁹
- [10] Finally, M was charged with assault occasioning bodily harm and a domestic violence offence on 2 November 2017. Convictions were recorded and he was sentenced to 15 months imprisonment with a parole release date of 2 November 2017.
- [11] I am unable to go behind the fact of these convictions and I must rely on the fact of M's convictions for these offences.
- [12] Under the WWC Act, a positive notice must be issued to M unless the Tribunal considers that the facts of the case give rise to an exceptional case in which it would not be in the best interests of children for a positive notice to be in place. This is because none of NRM's convictions are defined as serious or disqualifying offences under the WWC Act.¹⁰

Domestic Violence Orders

- [13] M and his son's mother F had a tumultuous relationship over approximately a three year period characterised by violence and numerous domestic violence orders where both parties were the complainants. There were numerous and varied breaches, again by both parties. Not all of these were reported to police. I characterise the relationship on the evidence presented to the Tribunal as at least enmeshed and certainly violent. There were numerous separations, but these parties were drawn back together on many occasions. The situation was made more complex by the birth of their son and their ongoing roles as parents. Their young child was in their care during these incidents of violence between them.

⁴ *Queensland Civil and Administrative Tribunal Act 2009* (Qld); s 20.

⁵ *Working with Children (Risk Management and Screening) Act 2000* (Qld); s 6.

⁶ Second reading speech, Commission for Children and Young People Bill (Qld) page 4391.

⁷ BCS 83

⁸ BCS 84

⁹ BCS 22

¹⁰ *Working with Children (Risk Management and Screening) Act 2000* (Qld); sched's 2 and 4

Background

- [14] M is 49 years old. He now has regular contact with his son under Family Court orders.
- [15] M is now in a longstanding relationship, but these parties do not live together. However, both M and his partner L acknowledge the strength of the relationship and this provides M with stability in his life. The Tribunal heard evidence from L who impressed as clear-sighted about M's character and her independent relationship with him.
- [16] M's attitude towards all the police and domestic violence matters was to completely blame his ex-partner F for everything. In his view he is completely blameless. F is completely responsible for any actions resulting in all his court appearances that involve her.
- [17] I have viewed two videos of police interviews of M dated 23 March 2016 and 28 April 2017.¹¹ The viewing of these videos re-enforced M's lack of insight into his personal actions. In his view, all personal interactions with his ex-partner were always completely his ex-partner's fault. He was blameless.
- [18] M also believes for all other police charges (except the 2015 drink driving charge which he did admit was his fault) either the police fabricated the evidence, edited camera footage, colluded with police prosecutors and "bamboozled"¹² magistrates. M was never to blame. It was always someone else's fault.
- [19] M displayed no insight into his contribution to any of the matters I have listed above. M describes himself as a loving gentle man who tries to do good in his life and help people. M's police and domestic violence record appears to be at odds with that assessment.

M's material

- [20] The material filed by M to support his application to review consisted of 5 sets of written submissions. The themes of all these submissions were, in the main,
 - (a) Ongoing blame attributed to his ex-partner, police, police prosecutors and Judges.
 - (b) The impact of his belief system on the circumstances of his being issued with a negative notice.
 - (c) His blameless character in nearly all incidents.
 - (d) A dissection of the reasons of the original decision maker for the issue of a negative notice based on his belief system.
- [21] The last theme identified is irrelevant to these proceedings as this hearing is a de novo hearing before me on the evidence before me.
- [22] M provided no witnesses to support his application despite both professional health providers currently supporting him and personal friends available locally or by telephone.

¹¹ Exhibit 9

¹² M's description

- [23] During the hearing I invited his current partner L to give evidence on his behalf.
- [24] I must have regard to the matters set out in s226(2) and s228(2) of the WWC Act and any other relevant matters. Considering the relevant sections and other matters, I find that M has convictions for the following offences:¹³
- (a) possessing dangerous drugs (13 June 2015);
 - (b) possess utensils or pipes etc that had been used (13 June 2015); and
 - (c) assaults occasioning bodily harm and a domestic violence offence (1 January 2017).
- [25] M's traffic history reflects entries for:¹⁴
- (a) careless driving/due care and attention (on 31 May 2013); and
 - (b) driving a motor vehicle over the alcohol limit (16 May 2015).
- [26] M has finalised charges for the following offences:¹⁵
- (a) possess prohibited weapon without exemption/approval (on 16 January 2002); and
 - (b) contravention of domestic violence order (between 18 and 23 March 2016).
- [27] The offences are not serious offences under the WWC Act.¹⁶
- [28] In determining whether this is an exceptional case in which it would not be in the best interests of children for M to be issued with a positive notice, there is little evidence which supports M's application (the protective factors), and substantial evidence which does not (the risk factors).
- [29] One protective factor identified is that M is in a stable relationship and that the contact with his son is now regulated under a Family Court Order. This limits the contact between the parents.
- [30] M also gave evidence (confirmed by his partner L) that he no longer takes drugs or drinks alcohol.
- [31] Risk factors start with M's complete lack of insight in his offending. In his view he is a victim of all around him involved in the court proceedings – his ex-partner, the police, police prosecutors and magistrates.
- [32] Although the offences were several years ago, I have no evidence that M has gained any insight in the passage of time into the part he must have played in the offences. M has not provided any character references, health reports, or evidence from independent third parties that support his application for a blue card. In fact, M's evidence before the Tribunal re-enforced his continuing lack of insight.
- [33] M further clearly told the Tribunal that he did not believe the WWC Act applies to him. I do not consider it to be in the best interests of children that a positive notice

¹³ BCS 22.

¹⁴ BCS 84.

¹⁵ BCS 22 and BCS 83.

¹⁶ S15

be issued to a person who does not consider himself bound by the law of Queensland or the WWC Act particularly.

- [34] The decision of *Re TAA*¹⁷ the former Children’s Services Tribunal demonstrates at paragraph 97 that:

“The Tribunal is of the view that good insight into the harm that has been caused is a protective factor. A person aware of the consequences of his actions on others is less likely to re-offend than a person who has no insight into the effect of his actions on others. This is particularly important with children because they are entirely dependent on the adults around them having insight into their actions and the likely effect on children;”

- [35] The central focus of the legislation is the protection of children. It is expected by this Tribunal that Blue Card holders will model appropriate, safe and legal behaviour and respect for the legal system and legitimate authorities¹⁸ so that children develop a sense of right and wrong and of the need to always tell the whole story to authority figures. M has shown his complete disregard for the legal system generally and the WWC Act particularly.
- [36] M displays no insight into any of the current issues before this Tribunal or his past offending history. He has presented no evidence to support himself or his current beliefs.
- [37] A Blue Card is issued unconditionally and would allow M to work unsupervised with children across a range of circumstances. M is a mature man. This Tribunal expected him to have developed a mature understanding and insight of the effects and consequences of his actions. This was not apparent in his evidence or demeanour at the hearing of this matter.
- [38] I have considered the relevant human rights as set out in the *Human Rights Act* 2019 (Qld) (the “HRA”) as required by s 48 of that Act. I must interpret statutory provisions to the extent possible that is consistent with their purpose in a way that is compatible with human rights.
- [39] M’s rights and the rights of children to recognition as people before the law entitled to equal protection without discrimination, freedom of expression and privacy and reputation are all engaged. Of particular concern are the rights of children, the protection that is needed and is in the child’s best interests because they are children. The decision has the proper purpose of promoting and protecting the rights, interests and wellbeing of children and young people which is itself a human right.¹⁹
- [40] Taking into account the findings above about the criteria set out in s 221 and s 228 of the WWC Act, I am satisfied that the issuing of a positive notice would not be reasonable and justified and that the limits imposed by this order are reasonable and justified in accordance with s 13 of the HRA.
- [41] I am satisfied that this is an exceptional case in which it would not be in the best interests of children for NRM to be issued with a Blue Card.
- [42] The respondent’s decision is confirmed.

¹⁷ [2006] QCST 11 (26 June 2006).

¹⁸ *CW v Chief Executive, Public Safety Business Agency* [2015] QCAT 219 at [61], [67].

¹⁹ HRA s 13(2)(b).