

SUPREME COURT OF QUEENSLAND

CITATION: *Attorney-General for the State of Queensland v Sands* [2017] QSC 274

PARTIES: **ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND**
(applicant)
v
ERIC SANDS
(respondent)

FILE NO: 11025 of 2010

DIVISION: Trial Division

PROCEEDING: Application

ORIGINATING COURT: Supreme Court of Queensland at Brisbane

DELIVERED ON: 20 November 2017

DELIVERED AT: Brisbane

HEARING DATE: 20 November 2017

JUDGE: Applegarth J

ORDER: **Order as per amended draft.**

CATCHWORDS: CRIMINAL LAW – SENTENCE – SENTENCING ORDERS – ORDERS AND DECLARATIONS RELATING TO SERIOUS OR VIOLENT OFFENDERS OR DANGEROUS SEXUAL OFFENDERS – DANERGOUS SEXUAL OFFENDERS – GENERALLY – where the respondent contacted his daughter by telephone and thereby contravened a direction given pursuant to a supervision order – where this occurred at a time when the respondent had failed to take medication – where the evidence provides a sufficiently high degree of assurance that the respondent is likely to comply with his anti-psychotic medication regime and continue to undergo anti-libidinal treatment under the care of any appropriately qualified psychiatrist - where the parties agree that the respondent has discharged the onus under s 22 of the Act

Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld) s 22

COUNSEL: J B Rolls for the applicant
K Prskalo for the respondent

SOLICITORS: Crown Law for the applicant
Legal Aid Queensland for the respondent

- [1] The respondent contravened a requirement of a supervision order. The contravention, which is admitted, occurred in the context of his not taking his anti-psychotic medication. As a result, he became unwell, and made contact with his daughter by telephone. He took some months to recover from this episode, which arose as a result of not treating his schizophrenic illness. The applicant accepts that he appears to have recovered and is presently stable.
- [2] The respondent has deposed that he is willing to continue to take anti-psychotic and anti-libidinal medication. Although he has a history of not being compliant with his medication, the applicant accepts that the administration of at least one of the required medications intramuscularly renders the risk of non-compliance less likely.
- [3] The alleged contravention, having been admitted and proven, the onus is upon the respondent to satisfy the Court on the balance of probabilities that adequate protection of the community, despite the contravention, can be ensured by a supervision order.
- [4] The applicant submits:

“It would appear that if the respondent’s mental health is managed and he continues to undergo treatment with a psychiatrist who is able to manage the administration of such medication, then it would appear that the risk is able to be managed in the community on a supervision order.”
- [5] Ultimately, the issue is whether the evidence provides a sufficiently high degree of assurance that the respondent is likely to comply with his anti-psychotic medication regime and continue to undergo anti-libidinal treatment under the care of an appropriately qualified psychiatrist.
- [6] The applicant accepts that if these matters can be established, then, in the circumstances, it would appear that the risk is able to be managed by the respondent’s release on the supervision order to which he was subject in November 2016, subject to two amendments. The terms of those amendments are now agreed.
- [7] I accept that the respondent has established his intention to comply with the required treatment regimes and that his compliance can be suitably monitored.
- [8] In the circumstances, I find that he contravened Requirement 7 of the supervision order made on 19 January 2016, and that he has discharged the onus of proof imposed by s 22 of the *Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld)*. I make an order in terms of the amended draft order which includes new Requirements 41 and 42 in relation to internet access and mobile phone use.