

SUPREME COURT OF QUEENSLAND

CITATION: *Attorney-General for the State of Queensland v John Steven Murphy* [2018] QSC 17

PARTIES: **ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND**
(applicant)
v
JOHN STEVEN MURPHY
(respondent)

FILE NO: BS 9743 of 2017

DIVISION: Trial Division

PROCEEDING: Application

DELIVERED ON: 5 February 2018, *ex tempore*

DELIVERED AT: Brisbane

HEARING DATE: 5 February 2018

JUDGE: Bowskill J

ORDER: **Supervision order made, as per the schedule to these reasons**

CATCHWORDS: CRIMINAL LAW – SENTENCE – SENTENCING ORDERS – ORDERS AND DECLARATIONS RELATING TO SERIOUS OR VIOLENT OFFENDERS OR DANGEROUS SEXUAL OFFENDERS – DANGEROUS SEXUAL OFFENDER – GENERALLY – Where the respondent was convicted of maintaining an unlawful sexual relationship with a child in 2004, and sentenced to seven years' imprisonment – Where there the respondent completed a high intensity sexual offending program whilst in custody and was released on parole – Where the respondent committed further sexual offences against a child in 2012, for which he was convicted in 2014 and sentenced to four years' imprisonment – Where the material supports a finding that the respondent is a serious danger to the community in the absence of a supervision order, and the respondent concedes that – Where there is dispute as to whether the duration of the order should be 10 years or five years.

Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld)

Attorney-General for the State of Queensland v DBJ [2017] QSC 302, distinguished

Attorney-General v Francis [2007] 1 Qd R 396, referred to

COUNSEL: J Tate for the applicant
H Fong for the respondent

SOLICITORS: G R Cooper Crown Solicitor for the applicant
Legal Aid Queensland for the respondent

Introduction

- [1] John Steven Murphy is approaching the full-time release date of a period of imprisonment imposed on him on 12 February 2014. He is due for release on 11 February 2018.
- [2] The Attorney-General applies for an order under section 13(5)(b) of the *Dangerous Prisoners (Sexual Offenders) Act 2003* that the respondent be released from custody subject to a supervision order made under that Act. Although the application as filed also sought an order for indefinite detention under section 13(5)(a) that was not pressed by the Attorney-General, it being accepted that release subject to a supervision order would provide the requisite adequate protection for the community.
- [3] The only contentious issue between the parties on the hearing today has been the duration of that supervision order. The Attorney-General contends for 10 years, whereas the respondent submits it should be five years. There were some other aspects of disagreement about some of the proposed conditions of the order, but those were able to be resolved by agreement.
- [4] Notwithstanding the extent of agreement between the parties, it is appropriate that I make reference to the material which supports the agreed outcome before then dealing with the duration of the order.
- [5] An order may only be made under section 13(5) of the Act if the court is satisfied the prisoner is a serious danger to the community in the absence of such an order. Under section 13(2) a prisoner is a serious danger to the community:
 - “if there is an unacceptable risk that the prisoner will commit a serious sexual offence –
 - (a) if the prisoner is released from custody; or
 - (b) if the prisoner is released from custody without a supervision order being made.”
- [6] As defined in the schedule to the Act a “serious sexual offence” is an offence of a sexual nature involving violence, or against a child, or against a person, including a fictitious person, represented to the prisoner as a real person, whom the prisoner believed to be a child under the age of 16 years.
- [7] Section 13(6) states that in deciding whether to make a continuing detention order, or a supervision order, the paramount consideration is the need to ensure adequate protection

of the community. The court must consider whether adequate protection of the community can be reasonably and practicably managed by a supervision order and whether the requirements of the supervision order, which are governed by section 16, can be reasonably and practicably managed by Corrective Services officers.

- [8] As I have already foreshadowed, it is not contended in this case that protection of the community warrants a continuing detention order. However, it is contended that protection of the community calls for a supervision order; and that is conceded by the respondent.

Serious danger to the community

- [9] I am satisfied to the requisite high degree of probability, based on the evidence which has been placed before the court, that the respondent is a serious danger to the community for the purposes of section 13(1).
- [10] I have had regard to the following matters.

The respondent's antecedents and criminal history

- [11] The respondent is 56 years of age, his date of birth being 6 October 1961. His personal history is recorded in the psychiatrists' reports. The respondent has described being one of four children. His father worked as a train driver and at an ice-works. His mother ran a family shop and the family lived in the home behind the shop. He described his father as a heavy drinker who was violent when intoxicated, who did not respect women and who raised him to believe women were there to serve men. He described his mother as loving and protective. He left school after grade 10. He identifies his mother, aged 82, and his brother, aged 58, as his support people, and told Dr Sundin that he plans to live with them on his release. His father passed away in 2010.
- [12] He has worked in a number of jobs, including at the ice-works where his father worked, as a kitchen hand, landscaper and parks inspector for a council. After his release on parole in 2009 he obtained a truck driving licence and worked in that capacity until he was incarcerated again in 2014. He is recorded as having told the psychiatrists that he is fairly confident that employer would give him more work on his release.
- [13] As far as personal and intimate relationships are concerned, he apparently commenced a relationship with a woman aged in her 20s when he was 14 or 15. Dr Sundin records that she was 25, Drs Arthur and Beech record she was 21. This continued until he was 18. He had a number of other relationships after that, but has never been married and has no children.
- [14] The respondent's relevant criminal history is as follows. On 30 March 2004 he was convicted of the offence of maintaining an unlawful sexual relationship with a child. This covered a period of five and a-half years from March 1997 to October 2002. He was also charged with various indecent treatment charges, a charge of unlawful sodomy

and unlawful carnal knowledge in respect of that child. He was sentenced on all charges to seven years imprisonment. He pleaded guilty but there was a contested sentence because the respondent disputed the age at which the sexual relationship started, contending that it was when the child was about 14 whereas she said it was when she was about 11. She was 17 at the time of the contested sentence and when she was required to give evidence. The sentencing Judge found the respondent an “uncompelling witness” and was satisfied the sexual relationship started as described by the complainant, when she was about 11.

- [15] In the sentencing remarks of Judge Dick SC her Honour described his offending as “at the highest end of the range”, which was an apt decision, given that the victim child was aged about 11 at the start of the offending; the duration of the offending and the acts involved, including sexual intercourse occurring regularly from when she was 12 or 13, as well as digital penetration of her anus and other acts; the offending involved a gross breach of trust given that the child was the respondent’s god-daughter (her father was described as the respondent’s best friend).
- [16] In August 2004 the respondent was convicted of possession of a child abuse computer game and sentenced to 12 months imprisonment concurrent with the term he was then serving.
- [17] He was released on parole in February 2009 and continued to be subject to parole until about March 2011.
- [18] In 2012 he committed further sexual offences for which he was convicted in February 2014. On this occasion he was convicted of rape, involving digital penetration, as well as indecent dealing with, a 12 year old child. This conviction followed a trial. The child was the daughter of a female friend of the respondent’s. There was again a breach of trust involved. He was sentenced to four years for the former offence and two years for the latter. The respondent has maintained his denial of these offences.
- [19] Prior to the 2004 conviction the respondent had a few other entries on his criminal history, three of which were for driving under the influence of alcohol and two relating to public urination, but no other offences of a sexual nature.
- [20] He will ultimately have served the whole of the four year sentence imposed on him in 2014 because an earlier application for parole was unsuccessful, due to unavailability of accommodation.

Participation in rehabilitation programs

- [21] The material shows the respondent has participated in a number of programs whilst in custody. In 2008 he completed the High Intensity Sexual Offending Program. He was said to have met the program objectives satisfactorily.

- [22] In 2009 he completed the Sexual Offending Maintenance Program. The completion report described him as a supportive group member who willingly offered challenges and advice to group members, demonstrated appropriate problem solving abilities and a high level of empathy for others. No further interventions were recommended.
- [23] In 2014 he participated in the Getting Started Preparatory Program, but because of his denial of the offending leading to the 2014 convictions was considered not suitable to participate in any future treatment programs.

Psychiatrists' reports and opinions

- [24] The court has the benefit of reports and evidence from three psychiatrists, Dr Sundin, Dr Arthur and Dr Beech.
- [25] Firstly, Dr Sundin prepared a report prior to this application being made, dated 7 April 2017. In her report Dr Sundin expressed the opinion that the respondent meets the criteria for both paedophilic disorder (non-exclusive type sexually attracted to females) and "cluster C personality traits". I will refer in a moment to Dr Beech's diagnosis, which is of hebephilic disorder, in respect of which Dr Sundin expressed some agreement, given the age of the child victims on each occasion, that is, commencing at 11 in the first case and 12 in the second.
- [26] In terms of the various risk assessment instruments, on the Static-99R Dr Sundin placed the respondent in the group of offenders at a high risk for future sexual recidivism. On the sexual violence risk scale she put his risk at moderate to high. Overall, Dr Sundin expressed the view that the respondent represents a moderate to high risk for future sexual offending. She considered he represents an unacceptable risk to the community without the benefit of a supervision order. Dr Sundin concludes in her report, at pages 30 to 31, that:

"On the positive side, Mr Murphy has successfully completed a number of treatment programs and has satisfactory exit reports from these. Additionally, he has remained abstinent from alcohol and appears to have done so in the period after his parole ended. He has a good employment record and reports that he has the opportunity for returning to his previous employer once he is placed back in the community. He has supports from his mother and one of his brothers. He is accepting of the possibility of a supervision order and agreeable to participate in counselling within the community. If Mr Murphy is released into the community in the future, he should be required to make full disclosures of his history to any friends with adolescent children and should be discouraged from engaging with any group where children are likely to be part of the recreational activity. He would need to be monitored electronically for any access towards pornography which may be an indication of increasing sexual

preoccupation. He should be encouraged to return to employment and to continue to abstain from alcohol.

If he were released into the community, he should be subjected to a supervision order for a period of between 5 to 10 years.”

- [27] In her oral evidence today Dr Sundin clarified that her opinion is that in the respondent’s case a supervision order of 10 years is appropriate.
- [28] Dr Sundin’s opinion in this regard was based on the following matters. Firstly, the nature of his previous offending from which it can be said he is not an impulsive offender but rather that the likely scenario for reoffending would involve exploitation of trust built up over a period of time and involving gradual grooming of a child victim. Secondly, the length of time involved in the first set of offences, which was maintaining a sexual relationship over an approximately five year period with a child he had known since her birth. Next, that within a few years of his release from prison after the sentence imposed on that occasion, and notwithstanding he had completed a high intensity sexual offender program in prison, he committed the further offences in respect of which he remains in denial.
- [29] Those factors, Dr Sundin said, supported her view that a longer period of supervision was warranted. She did not consider that five years would be appropriate. Insofar as age is concerned she said that with paedophilia the risk is not mitigated by age particularly, until about 70. She contrasted that with the risk in the case of offences involving sexual violence, the risk of which may be shown to reduce by about age 60.
- [30] Dr Sundin concurred with the view expressed by Dr Beech, to which I will refer in a moment, that whilst there may be some reduction in risk at the five year mark, the risk will be prolonged beyond that time and continue to be moderate after five years.
- [31] She referred to actuarial evidence as to the reduction in risk where a person has been able to remain offence free for five years, but having regard to this respondent’s history of offending, involving as that did the exploitation of trust over time, grooming and manipulating, and the commission of the second set of offences, his age now and the diagnosis of paedophilia and deviant sexual interests, Dr Sundin said she does not think the respondent will be substantially free of risk until age 70.
- [32] Dr Sundin’s evidence clearly supports the imposition of a supervision order in place for 10 years in order to ensure adequate protection of the community.
- [33] Turning then to the report of Dr Ken Arthur, which is one of the reports prepared under section 11 of the Act and is dated 20 October 2017. Dr Arthur makes similar diagnoses to those of Dr Sundin in terms of paedophilic disorder and personality vulnerabilities in the Cluster C spectrum. Having applied the various risk assessment instruments and, on the basis of his clinical assessment, Dr Arthur considers the respondent’s risk of sexual recidivism to be moderate.

[34] In terms of risk scenarios, Dr Arthur says, at paragraphs 215 and 216 of his report:

“Should prisoner Murphy reoffend it will most likely consist of contact offences with peri-pubescent/teenage girls. These will be children he has come to know through association with their parents. It is likely that he will engage in a period of grooming and/or selection of a vulnerable child. The motivation for reoffending will be primarily his sexual gratification as well as to assuage feelings of loneliness and low self-esteem. Any reoffending would cause significant emotional and possible physical harm to his victims. Whilst there is no evidence that future sexual violence may escalate to life threatening violence, I note that in the index offences prisoner Murphy did use a degree of physical force on his victim (pushing her back onto the bed).

It is unlikely that prisoner Murphy will reoffend soon after release; he has shown the capacity to delay gratification after his index [I note Dr Arthur corrected this to refer to first] offences and was able to complete a number of years of parole successfully. He will also need time to groom/select a victim. Possible warning signs of an increased risk of reoffending would be prisoner Murphy spending time in the company of young girls in a family or holiday setting, a return to substance abuse or experiencing a failed relationship resulting in feelings of rejection. Once started, the offending is likely to be maintained over time. Prisoner Murphy’s risk of reoffending is chronic.”

[35] Dr Arthur outlines a number of scenarios described as no change, partial change and best case scenario in his report, ultimately expressing the opinion that the partial change is the most likely one. That is described at paragraph 218:

“Prisoner Murphy will be highly motivated not to reoffend on the basis that he does not wish to return to jail and acknowledges the harm caused to his previous victims. Whilst he may not accept responsibility for the index offences, he will accept his history of offending against children and his psychological vulnerabilities. In addition to re-establishing his work and social connections, he will engage in psychological therapy which will improve self-awareness and help him to better understand the drivers behind his past sexual offending. Whilst prisoner Murphy will initially remain vigilant in regard to contact with underage girls, due to his denial of any paedophilic tendencies and desire to be seen as ‘normal’ he may come into contact with vulnerable children in the context of forming adult relationships. Should he be exposed to negative emotions or states of intoxication there is a risk of reoffending.”

[36] There was agreement from both Dr Sundin and Dr Beech with the description of the respondent’s risk as “chronic”. There was not agreement as to the respondent being

“highly motivated” not to reoffend; the clearest counter-indicator of that being the commission of the second set of offences after completion of his first sentence, a high intensity sex offender program and parole. For those reasons, I do not find this a persuasive point in the respondent’s favour. What is described in paragraphs 215 and 216 is otherwise consistent with Dr Sundin’s point about the particular nature and circumstances of the respondent’s offending and the duration in which that may come about.

- [37] As noted, at paragraph 221 Dr Arthur expresses the view that the respondent’s future risk of sexual recidivism is moderate. At paragraph 222 he says that:

“Even if it was subsequently shown that prisoner Murphy was innocent of the index offences, his static risk factors remain. There is evidence of prisoner Murphy having deviant sexual interests regarding prepubescent/young teenage girls and he regularly placed himself in high risk situations even after formulating a detailed relapse prevention plan. I do not believe he has received treatment for his psychological vulnerabilities and remains vulnerable to experiencing intense negative emotional states in the context of future relationship failures.”

- [38] Dr Arthur’s analysis supports the respondent’s release on a supervision order. At paragraph 231 of his report he says:

“Were prisoner Murphy placed on a supervision order, I believe a duration of 5 years would be appropriate. This would allow him to access appropriate psychological intervention, re-establish himself in the community and hopefully form an appropriate intimate relationship. In general, his advancing age will reduce his risk of sexual recidivism.”

- [39] Dr Arthur reiterated this opinion in his oral evidence today. I accept as fair and appropriate the observation by counsel for the Attorney-General that Dr Arthur’s opinion in this regard was “therapeutically based”. Dr Arthur said that five years “should be” long enough for the respondent to get the benefit of intense psychological therapy and “should be” long enough to enable him to re-integrate into ordinary life, strengthen his protective factors, and form healthy relationships. He referred to his experience of treating people who were the subject of supervision orders and the negative impact that such orders can have on them. He referred, for example, to the imposition of a 10 year order leading to a “reduction of expectations” on the part of the person subject of it, resulting in them failing to take appropriate steps towards their ultimate independence.

- [40] But in answer to questions which asked him to consider the matter from the perspective of risk to the community Dr Arthur agreed that, firstly, the diagnosis of paedophilia (or hebephilia, as indicated by Dr Beech) and presence of deviant sexual interests will not remit; that therapy is a means of dealing with that, not of curing it (I note that curing it

is my language, not Dr Arthur's). Secondly, that the consequences of any further offences committed by the respondent would plainly be very significant. And thirdly, that the matters outlined in paragraph 216 of his report do suggest a longer term would be suitable in terms of protection of the community. In that regard, in a general sense, he accepted that 10 years would be better than five. Nevertheless, Dr Arthur maintained a concern that 10 years would be too long.

[41] Dr Arthur described Dr Beech's and, for that matter, Dr Sundin's view – as to the risk reducing somewhat after five years but not significantly until 10 years – as “the conservative view” saying “I would hope and expect that effective therapy would reduce that”.

[42] Dr Arthur's opinion is that the balance is struck at five years.

[43] As already noted, I accept the observation that Dr Arthur's opinion was therapeutically based rather than looking at the issue from the perspective of the protection of the community, which is the paramount consideration under the Act. I also observe that there were a number of qualifiers in Dr Arthur's opinion as expressed in his oral evidence today, as indicated by his use of the words “hope” in the part of his evidence I have just referred to, and “should be” in his evidence earlier referred to.

[44] I turn then to the report of Dr Michael Beech, which is dated 29 November 2017. Dr Beech, like Dr Sundin, expressed the opinion that:

“Given the nature of the offences and the reoffending soon after his parole ended and his somewhat dependent personality style in the community, his sexual deviance and the difficulty he has had with intimate relationships, there is a moderately high risk that Mr Murphy will reoffend within five years of his release.”

[45] Dr Beech further expressed the following opinion at page 22 of his report:

“In my opinion, a supervision order would substantially reduce the risk of reoffending by simply limiting his access to potential victims. I do not think he requires a complete embargo on going to child-frequented places such as shopping centres or parks. He does require, I believe, heavy restrictions around establishing any contact with minors, or their parents. I believe he would continue to benefit from psychological therapy, probably a sexual offender maintenance program in the community. It would be beneficial if he were to return to his employment. He should be encouraged to pursue adult relationships and adult activities. Given the earlier problems with alcohol misuse, I recommend abstinence in the early stages of the supervision order.

It is difficult in these circumstances to know how long a supervision order should continue if one were in place. It would seem to me that parole

managed to defer the risk. On the other hand, five years would take him through to the age of 61 years, and a general reduction over time of risk.”

[46] Dr Beech provided a short supplementary report on 30 January 2018 in which he says:

“I think that Mr Murphy has a sexual deviance, an attraction to peri-pubescent girls. I would see this as hebephilia rather than a paedophilic attraction to pre-pubescent girls. He has dependent personality traits (otherwise known as Cluster C traits, DSM5).

There will be a general reduction of risk over time, in the absence of psychopathy. His risk is moderately high. After 5 years, assuming no offending, it would reduce to the moderate range. It will be prolonged though by the sexual deviance, personality issues, and external stressors, and most likely continue for ten years.”

[47] In terms of this diagnosis, as I have already noted, both Drs Sundin and Arthur agreed with what Dr Beech said about hebephilia, given the age of the child victims in both sets of offences.

[48] Dr Beech, in his oral evidence today, and taking into account Dr Sundin’s evidence which was given before his, agreed that in the case of this respondent age is not really a risk reduction factor. Dr Beech expressed the view that the risk of reoffending will be highest in the first five years, being moderate to high as noted in his report, but reduce after that point, nevertheless remaining at moderate and not reduce to low until after 10 years.

[49] Dr Beech indicated that the actuarial evidence of risk reduction following five years offence-free is based on unsupervised people, indicating it is not really known what the position is in the case of people subject to supervision for that period.

[50] Dr Beech had some qualifications in terms of describing the nature of the respondent’s behaviour involved in the earlier offending. For example, he said he would not describe the second offences as involving grooming, as opposed to manipulative and coercive behaviour. But, nonetheless, he agreed they were not impulsive offences. Dr Beech seemed to place less significance, though, on that in terms of its relevance to the risk assessment than Dr Sundin or, for that matter, Dr Arthur. I was persuaded by what Dr Sundin had to say about this, and it is consistent with what is in Dr Arthur’s report.

[51] Dr Beech nevertheless considers that the appropriate duration of a supervision order is 10 years in this case because, firstly, the respondent has a paraphilia – whether that is described as paedophilia or hebephiliac; further, he has acted on that twice, the second time following a lengthy term of imprisonment, completion of an intensive sexual offender course in custody and parole; thirdly, the last offence was committed when he was about 51 rather than when he was young; and his opinion that the risk will not drop below moderate for about 10 years.

Findings

- [52] The assessments undertaken by and the opinions expressed by the psychiatrists consistently support a finding to the requisite high degree of probability that the respondent is a serious danger to the community if released in the absence of a supervision order. On the basis of the opinion evidence of the psychiatrists, I am satisfied that there is an unacceptable risk that the respondent will commit a serious sexual offence if released unsupervised. On the evidence before the court the risk that the respondent will commit another serious sexual offence if released into the community unsupervised is moderate to high, and there is a need to protect members of the community from that risk.
- [53] It follows that I am also satisfied on the basis of the evidence that adequate protection of the community can be reasonably and practicably managed by a supervision order.

Supervision order

- [54] The requirements for such a supervision order are set out in section 16. The parties are agreed on the terms of an appropriate order, other than as to the duration of it. Having regard to the draft proposed I am satisfied it contains the requirements in section 16 and that there are no issues regarding the other conditions. Once again, the adequate protection of the community is the paramount consideration in terms of the form of the supervision order.
- [55] In relation to section 13(6)(b)(ii) I note that there is no suggestion in the evidence that the requirements cannot be reasonably and practicably managed by Corrective Services.
- [56] In relation to the duration of the order, for the following reasons, I am satisfied that in order to ensure the adequate protection of the community the duration of the order ought to be for 10 years.
- [57] The minimum period of an order is five years. In fixing the period the court is not to have regard to whether or not the prisoner may become the subject of a further supervision order. I must determine the matter today on the basis of the evidence that is before the court.
- [58] Although the respondent submitted that it may be relevant to take into account the fact that the respondent will become subject of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* at the end of any supervision order under the *Dangerous Prisoners (Sexual Offenders) Act* I am not persuaded that is a correct approach. In this regard, I would contrast the decision in *Attorney-General v DBJ* [2017] QSC 302 in which I did regard that as a relevant consideration on an application for a further supervision order. The question for me on this application is, keeping in

mind the paramount consideration is the need to ensure the adequate protection of the community and taking into account the evidence presently before me, what is the appropriate term of a supervision order.

- [59] The Attorney-General, on the basis of Dr Sundin's and Dr Beech's evidence in particular, submits 10 years is appropriate, and, among other things, emphasises the need to view the matter by reference to the respondent's demonstrated history of offending and the very significant consequences of any further offence committed by him. For the respondent it is submitted five years is appropriate, by reference to Dr Arthur's evidence and in reliance on the principle articulated in *Attorney-General v Francis* [2007] 1 Qd R 396 at paragraph [3], that the liberty of the subject should be constrained to no greater extent than is warranted by the statute.
- [60] Another point alluded to by counsel for the respondent was the possibility of the supervisory conditions in the order being reduced over time. In terms of the statute itself, though, there are mandatory requirements under section 16. It is not within the power of the court to make an order which does not include those mandatory requirements. In practical terms it may be expected that, in the course of any supervision order, but especially a longer one, the level of supervision and curtailment would be reviewed and reconsidered over time by Corrective Services officers consistent with their ability to give "reasonable directions" under the relevant provisions of the Act. Where there has been compliance with the requirements of the order it would be reasonable to expect a reduction of the level of supervision imposed. That is a product, however, of the management of the order by Corrective Services officers rather than a matter that can be addressed by an order of the court.
- [61] On balance, I am persuaded by the evidence of Dr Sundin and Dr Beech, as to the nature and level of risk posed by the respondent, and the duration of that risk, given the circumstances of his previous two sets of offences, the fact of his reoffending even after an intensive sex offender program in custody and parole, the age at which he most recently reoffended, being 51, and his age now, being 56, as well as the very serious consequences should he reoffend, that the appropriate duration for the supervision order is 10 years. The evidence of Drs Sundin and Beech is that at the five year mark the risk of this respondent reoffending will remain at moderate which, in my view, is still unacceptable for the purposes of section 13(2).
- [62] In relation to the other terms of the supervision order, as I have noted, although there was some dispute before the hearing, for example, as to a prohibition on consuming alcohol, that was able to be resolved between the parties, and having regard to the evidence I am satisfied the conditions agreed upon are appropriate without going into those matters in any detail.
- [63] I therefore propose to make an order in terms of the draft handed up by the Attorney-General with the changes noted to conditions 22, the removal of condition 25, the

changes to 35 and 36 and the removal of 38. The order as made is annexed to these reasons.

SCHEDULE

SUPERVISION ORDER

Before: Justice Bowskill

Date: 5 February 2018

Initiating document: Originating Application filed 19 September 2017

THE COURT being satisfied to the requisite standard that the respondent, John Steven Murphy, is a serious danger to the community in the absence of an order pursuant to Division 3 of the *Dangerous Prisoners (Sexual Offenders) Act 2003* (“the Act”), ORDERS THAT:

1. The respondent be subject to the following conditions until 11 February 2028:

The respondent must:

Statutory Requirements

- (1) report to a Corrective Services officer at the Queensland Corrective Services Probation and Parole Office closest to his place of residence between 9am and 4pm on the day of his release from custody and at that time advise the officer of his current name and address;
- (2) report to, and receive visits from, a Corrective Services officer at such times and at such frequency as determined by Queensland Corrective Services;
- (3) notify a Corrective Services officer of every change of the respondent’s name, place of residence or place of employment at least two (2) business days before the change occurs;
- (4) be under the supervision of a Corrective Services officer;
- (5) comply with a curfew direction or monitoring direction;
- (6) comply with any reasonable direction under section 16B of the Act given to him;
- (7) comply with every reasonable direction of a Corrective Services officer that is not directly inconsistent with a requirement of the order;
- (8) not leave or stay out of Queensland without the permission of a Corrective Services officer;
- (9) not commit an offence of a sexual nature during the period of the order

Employment

- (10) seek permission and obtain approval from a Corrective Services officer prior to entering into an employment agreement or engaging in volunteer work or paid or unpaid employment;
- (11) notify the Corrective Services officer of the nature of his employment, or offers of employment, the hours of work each day, the name of his employer and the address of the premises where he is or will be employed at least two (2) days prior to commencement or any change;

Accommodation

- (12) reside at a place within the State of Queensland as approved by a Corrective Services officer by way of a suitability assessment and obtain written approval prior to any change of residence;
- (13) if this accommodation is of a temporary or contingency nature, comply with any regulations or rules in place at this accommodation and demonstrate reasonable efforts to secure alternative, viable long term accommodation to be assessed by Queensland Corrective Services;
- (14) not reside at a place by way of short term accommodation including overnight stays without the permission of the Corrective Services officer;

Activities and associates

- (15) not commit an indictable offence during the period of the order;
- (16) respond truthfully to enquiries by a Corrective Services officers about his activities, whereabouts and movements generally;
- (17) not to have any direct or indirect contact with a victim of his sexual offences;
- (18) disclose to a Corrective Services officer the name of each person with whom he associates and respond truthfully to requests for information from a Corrective Services officer about the nature of the association, address of the associate if known, the activities undertaken and whether the associate has knowledge of his prior offending behaviour;
- (19) notify a Corrective Services officer of the make, model, colour and registration number of any vehicle owned by or generally driven by him, whether hired or otherwise obtained for his use;
- (20) submit to and discuss with a Corrective Services officer a schedule of his planned and proposed activities on a weekly basis or as otherwise directed;
- (21) if directed by a Corrective Services officer, make complete disclosure of the terms of this supervision order and the nature of his past offences to any person as nominated by a Corrective Services officer who may contact such persons to verify the full disclosure has occurred;

Alcohol and Drugs

- (22) abstain from the consumption of illicit drugs for the duration of this order and abstain from the consumption of alcohol whilst subject to contingency accommodation and subsequently not to exceed 0.05 alcohol breathe reading.
- (23) submit to any form of drug and alcohol testing including both random urinalysis and breath testing as directed by an Corrective Services Officer;
- (24) disclose to a Corrective Services officer all prescription and over the counter medication that he obtains;

Medical Treatment

- (25) attend upon and submit to assessment, treatment, and/or medical testing by a psychiatrist, psychologist, social worker, counsellor or other mental health professional as directed by a Corrective Services officer at a frequency and duration which shall be recommended by the treating intervention specialist;
- (26) permit any medical, psychiatric, psychological, social worker, counsellor or other mental health professional to disclose details of treatment, intervention and opinions relating to level of risk of re-offending and compliance with this order to Queensland Corrective Services if such a request is made for the purposes of updating or amending the supervision order and/or ensuring compliance with this order;
- (27) attend any program, course, psychologist, social worker or counsellor, in a group or individual capacity, as directed by a Corrective Services officer in consultation with treating medical, psychiatric, psychological or other mental health professional where appropriate;
- (28) take prescribed drugs as directed by a medical practitioner and disclose details of all prescribed medication as requested to an Corrective Services Officer;

Contact with children

- (29) develop a risk management plan in consultation with a treating psychologist or psychiatrist and discuss it as directed with an Corrective Services Officer;
- (30) not establish or maintain any supervised or unsupervised contact, including undertaking any care of children under 16 years of age, except with prior written approval by a Corrective Services officer. The respondent is required to fully disclose the terms of the order and nature of offences to the guardians and caregivers before any such contact can take place; Queensland Corrective Services may disclose information pertaining to the offender to guardians or caregivers and external agencies (i.e. Department of Child Safety) in the interests of ensuring the safety of the children;

- (31) advise a Corrective Services officer of any repeated contact with a parent of a child under 16 years of age. The respondent shall if directed by a Corrective Services officer make complete disclose the terms of the order and nature of offences to any person as nominated by a Corrective Services officer who may contact such persons to verify that full disclosure has occurred;
- (32) not to access school or child care centre at any time without the prior written approval of an Corrective Services Officer;
- (33) not visit or attend on the premises of any establishment where there is a dedicated children's play area or child minding area without the prior written approval of an Corrective Services Officer;
- (34) not visit public parks without the prior approval of an Corrective Services Officer;
- (35) obtain the prior approval of an Corrective Services Officer before attending the premises of any major shopping centre;
- (36) not join, affiliate with, attend on the premises of or attend at the activities carried on by any club or organisation in respect of which there are reasonable grounds for believing there is either child membership or child participation without the prior written approval of an Corrective Services Officer;

Technology, telephones and devices

- (37) notify an Corrective Services Officer of any computer or other device connected to the internet that he regularly uses or has used;
- (38) supply to an Corrective Services Officer any password or other access code known to him to permit access to such computer or other device or content accessible through such computer or other device and allow any device where the internet is accessible to be randomly examined using a data exploitation tool to extract digital information or any other recognised forensic examination process;
- (39) supply to an Corrective Services Officer details of any email address, instant messaging service, chat rooms, or social networking sites including user names and passwords;
- (40) obtain the prior written approval of an Corrective Services Officer before possessing any equipment that enables him to take photographs or record moving images;
- (41) allow any other device including a telephone to be randomly examined. If applicable, account details and/or phone bills are to be provided upon request of an Corrective Services Officer;
- (42) advise an Corrective Services Officer of the make, model and phone number of any mobile phone owned, possessed or regularly utilised by you within 24 hours of connection or commencement of use and includes reporting any changes to mobile phone details;

- (43) not access pornographic images on a computer or on the internet or purchase or obtain pornographic material in any other format without the prior written approval of an Corrective Services Officer in consultation with the treating psychiatrist or psychologist;
- (44) except with prior written approval from a Corrective Services Officer, you are not to own, possess or regularly utilise more than one mobile phone.