

# SUPREME COURT OF QUEENSLAND

CITATION: *Attorney-General (Qld) v Sampton* [2018] QSC 285

PARTIES: **ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND**  
(applicant)  
v  
**HOSEA SAM SAMPTON**  
(respondent)

FILE NO: BS4597 of 2016

DIVISION: Trial Division

PROCEEDING: Application for contravention of supervision order

DELIVERED ON: 27 November 2018 (ex tempore)

DELIVERED AT: Brisbane

HEARING DATE: 27 November 2018

JUDGE: Mullins J

ORDER: **Order in terms of the draft initialled by Mullins J and placed with the file.**

CATCHWORDS: CRIMINAL LAW – SENTENCE – SENTENCING ORDERS – ORDERS AND DECLARATIONS RELATING TO SERIOUS OR VIOLENT OFFENDERS OR DANGEROUS SEXUAL OFFENDERS – GENERALLY – where respondent contravened supervision order – where application pursuant to s 22 of the *Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld)* – where contraventions were in relation to the consumption of illicit drugs and having contact with his partner when directed not to do so – whether adequate protection of the community could be ensured by release under the existing supervision order – where applicant released under existing supervision order

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

COUNSEL: B H P Mumford for the applicant  
J Robson for the respondent

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

HER HONOUR: Mr Sampton was the subject of a supervision order made by Justice Applegarth on 17 October 2016 for a period of 10 years. He was returned to detention in July 2018 as a result of contraventions of the supervision order being detected.

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Those contraventions were in respect of three conditions, condition 7 (comply with every reasonable direction of a Corrective Services officer that is not directly inconsistent with a requirement of the order), condition 8 (comply with every reasonable direction of a Corrective Services officer which is intended to reduce the risk of interpersonal violence, aggression or intimidation of any person in which the person is in a personal or intimate relationship), and condition 23 (abstain from the consumption of alcohol and illicit drugs for the duration of the supervision order).

15 The conditions were contravened by positive drug tests being returned in June 2018 by Mr Sampton. The samples were positive for cannabis and methylamphetamine. The conditions were also contravened when Mr Sampton had been given a direction to cease all contact with a woman whom he described as his partner. That woman was then detected as being in Mr Sampton's unit on 7 July 2018. The conditions that were breached were for the reduction of the risk of further sexual offending. Mr  
20 Sampton's past sexual offending had been associated with alcohol and drug use and in personal violence in a domestic setting.

25 There has been no contravention, however, that is before the court today relating to further sexual offending. Under section 22, subsection (2) of the Dangerous Prisoners (Sexual Offenders) Act 2003 (the Act), Mr Sampton must satisfy the court on the balance of probabilities that the adequate protection of the community can be ensured by the existing order with or without amendments under subsection (7) of section 22.

30 Mr Sampton is a 54 year old indigenous man who committed a rape on 7 November 2007 for which he was sentenced to nine years' imprisonment with a serious violent offence declaration. He served that sentence in full before being released on the supervision order.

35 He had a previous conviction for rape that was committed in July 1992. On his release under the supervision order, he has managed to complete a number of programs and to engage in counselling with psychologist Dr Walkley. He completed a low-intensity substance intervention course in early 2017 and a substance abuse maintenance intervention program later in 2017. Mr Sampton completed the sex  
40 offender maintenance program between 5 February and 30 April 2018. Before he was returned to detention he had progressed to stage 5 curfew which is the least onerous curfew under a supervision order. With assistance he found private accommodation by June 2017 and regularly returned negative breath tests for alcohol.

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For the purpose of this contravention proceeding Mr Sampton has been assessed by two psychiatrists: Dr Sundin and Dr Timmins. Dr Sundin assessed Mr Sampton at an interview on 13 August 2018. Dr Sundin's diagnosis of Mr Sampton is of

antisocial personality disorder with elevated scores on the psychopathy rating scale, but Dr Sundin notes that Mr Sampton does not meet the full criteria for psychopath. She notes that he has a comorbid diagnosis of substance use disorder, cannabis, and continues to have cravings for cannabis and succumbed to intermittent use whilst in the community, usually to manage stress. Dr Sundin notes that Mr Sampton's previous alcohol abuse disorder has remained in sustained remission whilst in the community. Dr Sundin assessed Mr Sampton by a reference to the usual range of risk assessment instruments.

On Static-99R Mr Sampton scored 5 which places him amongst a group of offenders considered to be at moderate to high risk of sexual offending. On the SVR-20, which is a professional guideline used in assessment the risk for sexual violence, Mr Sampton was assessed at a moderate to high risk for future sexual offending. Dr Sundin, however, considered that there were positive features to be taken from Mr Sampton's time in the community, particularly his continued abstinence from alcohol, the absence of any sexually violent reoffending, his ongoing attendance at his sessions with his psychologist and general compliance with case management.

Although Dr Sundin observed that Mr Sampton had continued to demonstrate a number of antisocial personality traits, she considers that overall his antisocial behaviour had dramatically improved. Dr Sundin expresses the opinion that the supervision order has been successful in achieving the goal of containing the risk that Mr Sampton poses for future sexual violence to members of the community and that he has made a positive contribution to that risk management by continued abstinence from alcohol. Dr Sundin is of the opinion that Mr Sampton's abuse of cannabis and methylamphetamine and his denial of the presence of the woman in his apartment were consistent with the attitudes that go along with his antisocial personality disorder and were not unexpected behaviours.

But taking all the factors together, the supervision order has been serving its purpose, and Dr Sundin is of the opinion that Mr Sampton is appropriate for release back into the community under the terms of the existing supervision order. His risks of further violent sexual reoffending will remain controlled, if he continues to remain abstinent from alcohol and allows his intimate partner relationships to be monitored by Corrective Services.

Dr Timmins was not quite as supportive as Dr Sundin of Mr Sampton's release back into the community. Dr Timmins interviewed Mr Sampton on 10 September 2018. As with Dr Sundin, Dr Timmins anticipates that any future victim would likely be an intimate partner and that the supervision order that Mr Sampton has been under would most likely reduce his risk of violent sexual reoffending to a moderate to high-risk category, but the terms of the supervision order are likely to detect breaches that will be indicative of an escalation of that risk. Dr Timmins therefore concludes that the supervision order is likely to continue with the reduction of Mr Sampton's risk of offending and serve to limit his offending behaviour.

Mr Mumford of counsel who appeared on behalf of the Attorney-General noted in submissions that this is the first time that Mr Sampton has been the subject of

contravention proceedings since his release in November 2016 and that on the basis of the opinions of the psychiatrists, the adequate protection of the community can be ensured by the existing orders continuing to apply to Mr Sampton. Mr Robson of counsel assured me that it has been a salutary experience for Mr Sampton to be  
5 returned to custody as a result of the contraventions. Mr Sampton was charged with four offences contrary to section 43AA of the Act and pleaded guilty on 11 October 2018 when he was convicted and sentenced to seven days' imprisonment.

I am satisfied that the evidence adduced before the court in connection with this  
10 contravention hearing, particularly, the psychiatric evidence allows Mr Sampton to discharge the onus he bears. I am satisfied to the requisite standard that Mr Sampton has contravened requirements of the supervision order made on 17 October 2016 as particularised by the Attorney-General, but the psychiatric and other evidence  
15 satisfies me that is appropriate to order that Mr Sampton be released from custody subject to the requirements of the supervision order made on 17 October 2016. I therefore make an order in terms of the draft initialled by me and placed with the file.

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