SUPREME COURT OF QUEENSLAND

CITATION:	*Attorney-General (Qld) v Guy* [2019] QSC 177
PARTIES:	**ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND** (applicant) **v** **EDWIN ARTHUR GUY** (respondent)
FILE NO/S:	SC No 11336 of 2016
DIVISION:	Trial Division
PROCEEDING:	Application
ORIGINATING COURT:	Supreme Court at Brisbane
DELIVERED ON:	22 July 2019
DELIVERED AT:	Brisbane
HEARING DATE:	22 July 2019
JUDGE:	Lyons SJA
ORDER:	**1. Pursuant to s 30(3)(a) of the *Dangerous Prisoners (Sexual Offenders) Act* 2003 (Qld), it is ordered that the respondent continue to be subject to the continuing detention order made by Holmes CJ on 27 March 2017.**
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 has been subject to a continuing detention order for two years – where the respondent has high care needs – where respondent does not oppose application for continuing detention order — whether the respondent continues to present a serious danger to the community and should continue to be subject to the continuing detention order *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld) s 5, s 8, s 13, s 27, s 30 *Attorney-General for the State of Queensland v Francis* (2007) 1 Qd R 396, cited *Attorney-General for the State of Queensland v Guy* [2017] QSC 105, followed

Attorney-General for the State of Queensland v Guy [2018] QSC 179, cited

COUNSEL: J Rolls for the applicant
B Heilbronn for the respondent

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

This application

[1] The Attorney-General for the State of Queensland has applied for a review of the continuing detention of the respondent, Edwin Arthur Guy, pursuant to s 27 of the *Dangerous Prisoners (Sexual Offenders) Act* 2003 (DPSOA).

[2] The respondent has been subject to a continuing detention order under the Act pursuant to an order made by the Chief Justice on 27 March 2017,[1] and by this application the Attorney-General seeks an order under s 30 of the Act that the respondent continue to be subject to a continuing detention order. That Order is not opposed by the respondent.

[3] The continuing detention order was made under s 13, in Division 3 of Part 2 of the DPSOA. Section 5 of the DPSOA provides that the Attorney-General may make application for orders against a "prisoner". By the joint operation of ss 5, 8 and 13 of the DPSOA, a "prisoner" against whom a s 13 order may be made is one who is serving a period of imprisonment (whether in actual custody or not) for a "serious sexual offence".[2] The term "serious sexual offence" is pivotal to the scheme of the DPSOA and it is defined as:

> *"**serious sexual offence*** means an offence of a sexual nature, whether committed in Queensland or outside Queensland—
>
> (a) involving violence; or
>
> (b) against children."

[4] Section 13 of the DPSOA is in the following terms:

> "**13 Division 3 orders**
>
> (1) This section applies if, on the hearing of an application for a division 3 order, the court is satisfied the prisoner is a serious danger to the community in the absence of a division 3 order (a serious danger to the community).
>
> (2) A prisoner is a serious danger to the community as mentioned in subsection (1) if there is an unacceptable risk that the prisoner will commit a serious sexual offence—

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1 *Attorney-General for the State of Queensland v Guy* [2017] QSC 105.

2 The interaction of the different definitions of "prisoner" is explained in *Attorney-General for the State of Queensland v Newman* [2018] QSC 156 at [10]–[23].

(a) if the prisoner is released from custody; or

(b) if the prisoner is released from custody without a supervision order being made.

(3) On hearing the application, the court may decide that it is satisfied as required under subsection (1) only if it is satisfied—

(a) by acceptable, cogent evidence; and

(b) to a high degree of probability;

that the evidence is of sufficient weight to justify the decision.

(4) In deciding whether a prisoner is a serious danger to the community as mentioned in subsection (1), the court must have regard to the following—

(a) the reports prepared by the psychiatrists under section 11 and the extent to which the prisoner cooperated in the examinations by the psychiatrists;

(b) any other medical, psychiatric, psychological or other assessment relating to the prisoner;

(c) information indicating whether or not there is a propensity on the part of the prisoner to commit serious sexual offences in the future;

(d) whether or not there is any pattern of offending behaviour on the part of the prisoner;

(e) efforts by the prisoner to address the cause or causes of the prisoner's offending behaviour, including whether the prisoner participated in rehabilitation programs;

(f) whether or not the prisoner's participation in rehabilitation programs has had a positive effect on the prisoner;

(g) the prisoner's antecedents and criminal history;

(h) the risk that the prisoner will commit another serious sexual offence if released into the community;

(i) the need to protect members of the community from that risk;

(j) any other relevant matter.

(5) If the court is satisfied as required under subsection (1), the court may order—

(a) that the prisoner be detained in custody for an indefinite term for control, care or treatment (continuing detention order); or

(b) that the prisoner be released from custody subject to the conditions it considers appropriate that are stated in the order (supervision order).

(6) In deciding whether to make an order under subsection (5)(a) or (b), the paramount consideration is to be the need to ensure adequate protection of the community.

(7) The Attorney-General has the onus of proving that a prisoner is a serious danger to the community as mentioned in subsection (1)."

[5] Importantly, it is not the risk of the commission of any offence which renders a respondent a serious danger to the community and which enlivens the discretion to make an order, but rather the unacceptable risk must be of committing a "serious sexual offence" as defined.

[6] As the respondent is currently subject to a continuing detention order, s 27 provides for the intervals at which there must be a review and s 30 sets out the relevant principles which apply should the Court affirm the decision that the prisoner is a serious danger to the community in the absence of such an order as follows:

"**30 Review hearing**

(1) This section applies if, on the hearing of a review under section 27 or 28 and having regard to the matters mentioned in section 13(4), the court affirms a decision that the prisoner is a serious danger to the community in the absence of a division 3 order.

(2) On the hearing of the review, the court may affirm the decision only if it is satisfied—

(a) by acceptable, cogent evidence; and

(b) to a high degree of probability;

that the evidence is of sufficient weight to affirm the decision.

(3) If the court affirms the decision, the court may order that the prisoner—

(a) continue to be subject to the continuing detention order; or

(b) be released from custody subject to a supervision order.

(4) In deciding whether to make an order under subsection (3)(a) or (b), the paramount consideration is to be the need to ensure adequate protection of the community.

(5) If the court does not make the order under subsection (3)(a), the court must rescind the continuing detention order."

[7] As Davis J set out in his decision in relation to a review of the respondent's continuing detention order in 2018, s 30 in many ways mirrors s 13, and incorporates concepts of "serious danger to the community in the absence of a Division 3 order" and "adequate protection of the community". Section 30 also provides that the continuing detention order may only be affirmed if it justified by acceptable cogent evidence to a high degree of probability. He considered that there are really three questions that the Court must turn its mind to:[3]

> 1. Firstly, the Court must consider whether the respondent is "a serious danger to the community in the absence of a Division 3 order";[4]
>
> 2. If the answer to that question is in the affirmative, then consideration must be given to whether "adequate protection of the community" can be ensured by release of the respondent on a supervision order;[5]
>
> 3. If the answer to that question is in the negative, then generally (subject to any discretion to make no order) a continuing detention order should be made.[6]

Should the Court affirm the decision that the respondent is a serious danger to the community in the absence of a Division 3 order?

[8] The respondent has been examined by two psychiatrists, Dr Michael Beech and Dr Ken Arthur. Dr Beech's report is dated 30 June 2019, and Dr Arthur's report is dated 19 June 2019.

[9] Both psychiatrists saw the respondent at the Townsville Correctional Centre. The respondent made it very clear to both psychiatrists that he did not want to be interviewed, and whilst he was aware that it was a report for the court in relation to his continuing detention, he stated that he did not wish to proceed with the interviews. Accordingly, both psychiatrists have prepared their reports on the basis of the material provided to them, and neither were able to explore with the respondent his current circumstances or plans.

Factual background

[10] The respondent's history has been set out previously in the decisions of both the Chief Justice and Justice Davis and is conveniently summarised by Dr Beech in his report as follows:[7]

> "*Edwin Guy is a 66 year old single, widowed man who has been in custody since 2008. He is intellectually disadvantaged and suffers from Parkinson's disease. In 1998 he was convicted of the charges of:*
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> - *Rape (17 charges);*

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3 *Attorney-General for the State of Queensland v Guy* [2018] QSC 179 at [10].
4 Section 30(1) and (2).
5 Section 30(3).
6 Section 30(4).
7 Affidavit of Michael Joseph Beech sworn 4 July 2019, Exhibit MJB-2, page 2, ll 69-114.

- *Indecent assault with circumstances of aggravation;*
- *Maintaining a sexual relationship with a child;*
- *Indecent dealing with a child (97 charges);*
- *Wilfully expose a child under 12 to an indecent video (2 charges;*
- *Wilfully expose a child under 16 to an indecent act;*
- *Unlawful assault;*
- *Procure a child under 16 to commit an indecent act;*
- *Indecent assault (2 charges);*
- *Procure persons to commit an act of gross indecency by threats;*
- *Procure a person without their consent to commit an act of gross indecency.*

He was sentenced to ten years in custody with the recommendation that he receive treatment.

As noted in my 2016 report, 33 of the charges related to his step-daughter and the remainder to her friend. The offences started when his step-daughter was nine years and continued for seven years. They involved multiple accounts of rape and indecent assault. The girl's friend was 16 years old at the time of the indecent assaults.

Mr Guy was released on parole in 2007. He was subject to ANCOR reporting conditions at the time and breached them by moving to Caboolture. He resumed contact with his 27 year old daughter. She has low intelligence and profound cognitive deficits and suffered from depression and post-traumatic stress disorder. In 2008, she told police that Mr Guy indecently touched her and had sex with her on two occasions. This was five months after his release from parole, but while he was subject to the ANCOR conditions. When police interviewed Mr Guy, he said he could not recall the incident, but spoke of a separate incident that had occurred. He was convicted in 2009 of two counts of incest and two charges of failing to comply with reporting conditions.

Mr Guy's antecedent history involved learning problems (he was enrolled in an opportunity school until he was 16 years old); juvenile delinquency (break and enter and stealing offences); childhood epilepsy (seizures ceased when he was 20 years old); and an incident of sexual abuse when he was six years old. He worked for four years after he left school and was then placed on an invalid pension for conditions that

> *included the effects from a congenital brain condition. Over the years, his relationships and accommodation have been unstable. He has been generally socially isolated. He formed a relationship with EJ, an older woman, when he was 27 years old; she has four children to a previous relationship. He separated from her, and formed a relationship with her daughter, SD. The 1998 offences involved SD's daughter. Mr Guy told me in 2016 that he had three children to EJ and five or six children to SD."*

[11] It would seem that whilst he was in custody between 1998 and 2007, the respondent completed a medium intensity sexual offender program which indicated that his progress was hindered due to lack of engagement and the difficulties which were encountered in relation to assisting with his intervention needs. In 2015, during his current incarceration he declined to participate in further sexual offender programs. He has otherwise reported in custody to be stable, polite and well behaved. He is noted to be a happy prisoner.

[12] Dr Beech has also conveniently summarised the past risk assessments which have been done:[8]

Date	***Assessor***	***STATIC – 99R***	***Psychopathy***	***Risk***
2016	*Beech*	*4*	*21*	*High*
2016	*Grant*	*4*	*17*	*Moderate*
2017	*Arthur*	*3*	*21*	*Moderately high*
2018	*Grant*			*Moderate*
2018	*Arthur*			*Mod to high*

[13] In 2016, Dr Grant noted that the respondent was poorly motivated to have any further treatment. He noted that he was severely physically disabled and was likely to deteriorate further because of his Parkinson's disease. In prison it was noted he had a carer. In his 2018 report, Dr Grant stated that the respondent would not be able to live in independent accommodation and a nursing home environment was recommended, although that would be problematic because of his risk of impulsive sexual offending against any female resident in any institution in which he was placed.

[14] It is noted that the respondent has told doctors that he wants to be detained in prison and is frightened of the prospect of having to cope in the community. I note that Dr Grant in his 2018 report considered it was likely that the respondent would re-offend in order to get back into custody. It has been noted by a number of doctors, and Dr Beech in particular, that the respondent has no family or friends in the community and has no reason or motivation to leave prison. It would seem he prefers to remain in custody where he is known to fellow inmates and is not concerned by the possibility of a continuing detention order. It is also noted that the respondent does not wish to go to a nursing home and he considered that if there were elderly women there, he could possibly offend against them. He stated himself he could not cope outside prison and would not get the care that he needed in the community.

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8 Affidavit of Michael Joseph Beech sworn 4 July 2019, Exhibit MJB-2, page 3, ll 140-144.

[15] I note that in his 2018 report, Dr Arthur had noted that the respondent relied heavily on a carer and that he felt safe and settled in prison. He has refused his Parkinson's disease medication since November 2018 as he does not consider it assists him.

Dr Beech's report

[16] As I have already stated, Dr Beech prepared a Report for the purposes of this review. He considered his background of offending and his history in custody. In terms of his risk, he stated that his static factors have remained the same and place him in the slightly above average risk of re-offending in the community if he were to be placed unsupervised in the community. He stated that the dynamic factors are mixed. On the one hand, his increasing age, lack of sexual pre-occupation, evidence of institutionalisation and compliance would usually tend to reduce the risk but Dr Beech stated:[9]

> *"I agree with the earlier psychiatrists: Mr Guy is very settled in prison and a return to custody would not be a deterrent for him. I have not interviewed for this assessment, but I can accept that Mr Guy might offend simply to effect a return to custody, particularly if he felt vulnerable, unsafe or neglected in the community. His statements to Dr Grant and Dr Arthur in 2018 are worrying. Mr Guy seems to have proffered that he might offend, even in a nursing home, possibly influence the psychiatrists in their opinion that he should remain in custody."*

[17] Dr Beech noted that one of the drivers for the respondent's offending was the use of sexual offending to meet his emotional and social needs when he felt disadvantaged, unhappy or resentful. He considered there was a significant risk that he would return to that emotional state if he were to be released, particularly as that would mean he would be withdrawing from prison routines where he is settled and would be leaving the prison establishment where he feels comfortable and would then go into some form of community supported accommodation which might not be as amenable to him as his current incarceration. He noted it was difficult to determine whether he would carry out his implied threat that he would re-offend in order to return to custody.

[18] Dr Beech considered that if the respondent were to re-offend it would be to a vulnerable person who came within his purview. It might be an elderly woman in a nursing home or a family member he befriended, or simply a visitor to his accommodation. It is also notable he considered that the offending might go undetected. He also considered his offending against his daughter in the past indicates that it could be sudden without warning and with coercion.

[19] Whilst Dr Beech considered the risk could be managed in the community if a suitable placement could be found, that would mean accommodation where his physical and his emotional care needs are met, but where there are no females. He considered that that would mean he could not be placed in most nursing home settings. Dr Beech considered that an aged care assessment (ACAT) needs to be undertaken, even though he is in prison, to see what suitable facilities there might be for him where he can be supervised. In the absence of a suitable place he considered the risk remains at

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9 Affidavit of Michael Joseph Beech sworn 4 July 2019, Exhibit MJB-2, page 6, ll 290-297.

moderate or above with a concern that he might offend in order to return quickly to custody. He did not consider that much had changed since the continuing detention order in 2018 was re-affirmed.

Dr Arthur's report

[20] Dr Arthur also prepared a Report for the purposes of this hearing and noted the respondent's criminal history and his clinical summary. He also noted a history of reactive psychological symptoms relating to various traumas and losses and considered that he has significant personality vulnerabilities resulting from his history of pathological attachments, which was evidenced by impaired self-regulation, social isolation, impulsivity and some non-sexual criminal behaviour. He also noted that he had suffered from a neurological condition as a child which had required neurosurgery and was associated with seizures. He noted that this was probably due to hydrocephalus but had seen no formal documentation to corroborate that. Dr Arthur also noted significant trauma as a result of domestic violence as a child. He did not consider that the respondent suffered from paraphilia but has previously shown to be an inconsistent historian by misreporting details of his relationship and omitting to acknowledge important aspects of his offending such as the use of physical force and threats of violence.

[21] In his report, Dr Arthur noted that the respondent appeared to be an elderly man of stated age who ambulated without assistance with no evidence of a stick or walking frame. He saw no obvious characteristics of Parkinson's disease and particularly saw no evidence of Bradykinesia which is a movement which is typical in Parkinson's disease. He stated that apart from a slightly abnormal gait, he saw no observable evidence of a worsening in his Parkinson's disease. He noted that the respondent maintained his position of not wanting to leave jail although he was not able to clarify that with the respondent personally.

[22] Dr Arthur reviewed his history in custody. He noted that he had declined to take place in any programs and that he had also refused to take all medications since November 2018. He has also refused to have blood tests.

[23] Overall, Dr Arthur stated:[10]

> "*As previously noted, it appears that prisoner Guy maintains a passive/avoidance stance regarding his future and shows little desire to make plans outside of custody. He has previously denied any aspirational goals apart from remaining in jail until he dies.*
>
> *I have previously opined that he is highly institutionalised and displays dependent and entitled attitudes. The fact that he continues to voluntarily refuse his anti-Parkinsonian medications or attend medical clinics shows a willingness to maintain the sick role. It is not clear to me from the documentation whether his refusal of medication is episodic or consistent.*
>
> *I have previously noted that prisoner Guy is openly resisting any release from jail, suggesting incarceration would not be a deterrent for further*

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10 Affidavit of Kenneth Arthur sworn 28 June 2019, Exhibit KA-2 at [37]-[41].

> *offending. I am unaware of any new risk mitigation strategies. It is not inconceivable that if he has difficulty coping in the community he may re-offend as a way of returning to jail.*
>
> *Because of his dependent/avoidant coping strategies and high degree of institutionalisation, he would require a significant degree of interpersonal support should he be released into the community. Even if he has the capacity (as I suspect) to live in a semi-supported environment, he is likely to resist such arrangements.*
>
> *It is possible that prisoner Guy's dependence he needs could be met if he were placed in a nursing home that provided him with the same level of interpersonal support he is currently enjoying. This would include the provision of all meals, management of finances, full nursing care, on-site medical care and the provision of mobility aids if required. However, even in such an environment, there would still be some risk of sexual recidivism."*

[24] Dr Arthur also noted the respondent had not developed any further insight into his reason for sexual offences and it was noted to be impulsive. He mainly relies on avoidance of woman as a risk mitigation strategy. Dr Arthur noted that even if he were placed in a male only nursing facility it would be expected other residents would receive visits from family which would include women of all ages and children. Dr Arthur noted however, that despite his advancing age and increased physical fragility, he still had the capacity to sexually re-offend. He considered he had sufficient mobility to pursue victims and overpower a child or a physically frail woman.

[25] Dr Arthur noted:[11]

> *"He has shown to be impulsive, displays poor insight, impaired effect regulation and continues to avoid responsibilities for his offences. He has previously displayed a lack of sexual boundaries and may be potentially driven by issues of power and control in addition to sexual gratification. There is no evidence that these issues have been modified in recent years; he has not engaged in any treatment and does not appear motivated to do so."*

[26] As previously noted, the reports of the psychiatrists have been prepared without an interview with the respondent, as he has failed to cooperate with either of the psychiatrists. However, having considered both of those reports, it is clear that both psychiatrists consider that the respondent remains a serious danger to the community in the absence of a Division 3 order.

[27] Accordingly, I am satisfied that the decision made on 27 March 2017 that the respondent is a serious danger to the community in the absence of a Division 3 order should be affirmed.

[28] In reaching this decision, I have considered the matters identified in s 13(4) of the Act. I have reached this view based on the evidence presented at the review hearing. The relevant risk is the risk of the commission of a serious sexual offence, that is, an offence

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11 Affidavit of Kenneth Arthur sworn 28 June 2019, Exhibit KA-2 at [44].

of a sexual nature involving violence or against children. That risk means the possibility, chance or likelihood of the commission of such an offence. Having considered the material in this case, it is clear that there is a possibility that should the respondent be released without a Division 3 order, there is an unacceptable risk of the commission of an offence of a sexual nature involving violence, or against children, given the nature of his offending in the past. In considering whether a risk is unacceptable, it is necessary to consider the degree of likelihood of such a risk eventuating and the seriousness of the risk should it eventuate.

[29] In the circumstances of this case, given the reports of the psychiatrists, it is seriously concerning that should the respondent be released, he would commit a further offence of a sexual nature just so he could be incarcerated.

What orders should be made?

[30] Once a court affirms a decision that the prisoner is a serious danger to the community in the absence of a Division 3 order, then the discretion conferred by s 30(3) of the Act is to be considered. The onus lies on the applicant to satisfy the court that a continuing detention order should be made and in determining whether such an order should be made, the paramount consideration is the need to ensure the adequate protection of the community. Whilst the decision of the *Attorney-General v Francis*[12] made it clear that there ought be a preference for a supervision order over a continuing detention order, the court has to consider whether the adequate protection of the community can be reasonably and practically managed by a supervision order and that the requirements under s 16 can be practicably and reasonably managed by Corrective Services. I note that the court is not required to be satisfied that the order will provide an absolute guarantee of protection but the court must be satisfied that such an order is sufficient to provide *adequate* protection to the community.

[31] Drs Beech and Arthur both consider that there could be a possibility that the respondent might be able to be managed in the community should suitable accommodation be found. I also note the importance of having an aged care assessment done in order to ascertain the level of care that the respondent might need.

[32] The affidavit of Jolene Monson sworn 11 July 2019 sets out information in relation to enquiries that have been made regarding accommodation and aged care assessment for the purposes of the final hearing of this application by the Attorney-General. Ms Monson stated that the respondent has not put forward any address to be assessed for accommodation suitability and whilst the Queensland Corrective Services Department provides contingency accommodation at Wacol, Rockhampton and Townsville for offenders who are released under supervision orders, that accommodation is available only to offenders who have no suitable alternative accommodation at the time of release and is subject to availability. Furthermore that accommodation is usually only provided for an initial three month period and is subject to review.

[33] Ms Monson stated that the contingency accommodation is not a supported accommodation facility and therefore does not provide support and care services of the kind required by the respondent. Accordingly she states that the contingency

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12 (2007) 1 Qd R 396.

accommodation provided by QCS is not suitable for the respondent. Ms Monson also states that the High Risk Offender Management Unit (HROMU) regularly makes contact with various providers of supported accommodation services in Queensland. In this regard, Ms Monson states as follows:[13]

> "*Dr Arthur described the respondent as requiring nursing home type accommodation that is all male, with sufficient security to ensure the respondent does not leave the boundaries of the unit unsupervised, and that the respondent should not have unsupervised leave in the community.*
>
> *Pursuant to ongoing enquiries made by HROMU, QCS are not presently aware of any community facilities in Queensland that may meet risk management concerns relating to the respondent, as identified by the risk assessing psychiatrists.*
>
> *The HROMU is aware that, having reached the age of 65 years, the respondent can now be assessed for eligibility for aged care support via an Aged Care Assessment Team (ACAT) assessment. As at the time of swearing this affidavit, the HROMU has been informed by Offender Health Services that an ACAT assessment has yet to be progressed. The HROMU will continue to liaise with Offender Health Services to progress an ACAT assessment of the respondent.*"

[34] Ms Monson noted that Dr Arthur described the respondent as requiring nursing home accommodation that is all male with sufficient security to ensure that he does not leave the boundary of the unit unsupervised and that he does not have unsupervised leave in the community. Ms Monson stated that having made enquiries, they are not aware of any community facilities in Queensland that could meet the risk management concerns relating to the respondent as identified by the psychiatrists. Ms Monson stated at the time of swearing the affidavit, an ACAT assessment has yet to be progressed but they will continue to liaise with health services to progress such an assessment.

[35] In relation to the question as to whether Queensland Corrective Services could reasonably and practicably administer a supervision regime for the respondent to afford adequate protection of the community, Ms Monson stated that the evidence indicates the respondent needs supported accommodation in a facility which has no access to women or children whether staff, visitors or residents. It is also clear that the respondent does not meet the medical needs for a locked ward as is required for persons with dementia, which means that the respondent is not restricted in his movement around the facility any more so than other residents. Ms Monson stated that where a facility has a male only ward it is otherwise a mixed gender facility and it would not be reasonably or practically possible for QCS to monitor a controlled contact between the respondent and any women or child visitors, staff or residents of the facility where the respondent's movements are not restricted.

[36] Ms Monson noted that constant supervision of the respondent by QCS officers or by accommodation staff to ensure he does not sexually offend when in contact with women and children cannot be practically achieved in supported accommodation. She also noted that whilst GPS tracking could be applied and would provide an overview of his movements and patterns it would not provide QCS with any knowledge of the persons

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13 Affidavit of Jolene Monson sworn 11 July 2019, at [11]-[13].

with whom the respondent interacts or the nature of his interactions. Significantly, GPS monitoring and review is not able to detect victim access or the respondent's offending.

Should the respondent be subject to a continuing detention order?

[37] It is clear that the onus rests on the applicant to establish that a continuing detention order is the appropriate order. For such an order to be made the applicant must demonstrate that the community will not be adequately protected by a supervision order. In this regard, I have already set out the relevant factual matters which were addressed in the affidavit of Ms Monson. I also note the submission by the applicant that it should be noted that when he was released on parole in 2007 the respondent was subject to reporting conditions pursuant to the *Child Protection Act* and he breached those conditions. I also note that he has previously disregarded conditions imposed on him to protect the community.

[38] Both psychiatrists indicate the respondent needs semi-supported accommodation but with the restrictions which would essentially be the restrictions that pertain to him in custody. He would need to be excluded from all females and children and could not leave the facility unsupervised. And no such supported accommodation outside custody has been identified.

[39] Accordingly, the applicant has established that a continuing detention order should be made.

[40] The order of the court is that:

1. Pursuant to s 30(3)(a) of the *Dangerous Prisoners (Sexual Offenders) Act* 2003 (Qld), it is ordered that the respondent continue to be subject to the continuing detention order made by Holmes CJ on 27 March 2017.