SUPREME COURT OF QUEENSLAND

CITATION:	*Attorney-General for the State of Queensland v Williams* [2020] QSC 46
PARTIES:	**ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND** (applicant) **v** **STEPHEN NATHANIEL WILLIAMS** (respondent)
FILE NO/S:	BS No 3592 of 2010
DIVISION:	Trial Division
PROCEEDING:	Application
ORIGINATING COURT:	Supreme Court at Brisbane
DELIVERED ON:	Orders made 21 February 2020 and amended on 20 March 2020, reasons delivered 20 March 2020
DELIVERED AT:	Brisbane
HEARING DATE:	21 February 2020
JUDGE:	Davis J
ORDER:	**Order made on 21 February 2020:**

The court being satisfied to the requisite standard that the respondent, Stephen Nathaniel Williams, has contravened the requirements of the supervision order made by Justice Mullins on 12 July 2010 and as amended by Justice Applegarth on 10 August 2015:

1. **The respondent, Stephen Nathaniel Williams, be released from custody and continues to be subject to the supervision order made by Justice Mullins on 12 July 2010 and as amended by Justice Applegarth on 10 August 2015.**

2. **Pursuant to s 24(2)(b) of the *Dangerous Prisoners (Sexual Offenders) Act* 2003 (the Act), the duration of the order be extended so that it expires on 13 April 2022.**

3. **Pursuant to s 22(7)(b) of the *Dangerous Prisoners (Sexual Offenders) Act* 2003 (the Act), the supervision order made by Justice Mullins on 12 July 2010 and as amended by Justice Applegarth on 10 August 2015, be amended to as follows:**

   (a) amend order (1) by omitting the words '15 July

2020' currently in the order and inserting the following underlined words to read:

(1) The respondent be subject to the following requirements until 15 July 2025.

Orders made on 20 March 2020:

1. **That order 2 made on 21 February 2020 is rescinded.**
2. **It is declared that pursuant to s 24(2)(b) of the Dangerous Prisoners (Sexual Offenders) Act 2003, the period of the respondent's supervision order has been extended to 13 April 2022.**

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 served periods of imprisonment during the supervision order – where the period is extended by force of s 24 – where Attorney-General sought orders under s 22 of the *Dangerous Prisoners (Sexual Offenders) Act* 2003 (the Act) consequent upon alleged breaches of the supervision order made under the Act – where the respondent admitted the breaches alleged and submitted that he ought to be released back into the community subject to the supervision order – where both psychiatrists emphasise the importance of the respondent receiving ongoing psychological treatment – where it is doubtful the respondent could be trusted to have the discipline to continue with treatment in the absence of a supervision order – where opinions of the psychiatrists is that the supervision order ought to be extended – whether the period of the supervision order ought to be extended

Criminal Code Act 1995 (Cth)
Dangerous Prisoners (Sexual Offenders) Act 2003, s 2, s 3, s 5, s 13, s 13A, s 14, s 15, s 16, s 20, s 22, s 24

Attorney-General for the State of Queensland v Ellis [2012] QCA 182, cited
Attorney-General (Qld) v Fardon [2013] QCA 64, cited
Attorney-General v Francis [2007] 1 Qd R 396, cited
Attorney-General v Francis [2012] QSC 275, cited
Attorney-General v Lawrence [2010] 1 Qd R 505, cited
Attorney-General for the State of Queensland v Ruhland [2020] QSC 33, followed
Attorney-General for the State of Queensland v Sands [2016] QSC 225, cited
Attorney-General for the State of Queensland v Williams [2010] QSC 248, cited
Attorney-General (Qld) v Williams [2016] QSC 230, cited
Attorney-General (Qld) v Yeo [2008] QCA 115, cited

Fardon v Attorney-General (Qld) (2004) 223 CLR 575, cited
Kynuna v Attorney-General (Qld) [2016] QCA 172, cited
LAB v Attorney-General [2011] QCA 230, cited
Turnbull v Attorney-General (Qld) [2015] QCA 54, cited

COUNSEL: BH Mumford for the applicant
PF Richards for the respondent

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

[1] The Attorney-General sought orders under s 22 of the *Dangerous Prisoners (Sexual Offenders) Act* 2003 (the Act) consequent upon alleged breaches of the supervision order made under the Act. That order was made by Mullins J (as her Honour then was) on 12 July 2010.[1] The supervision order was made for a period of 10 years.

[2] The respondent admitted the breaches alleged and submitted that he ought to be released back into the community subject to the supervision order. On 21 February 2020, I ordered the release of the respondent on the supervision order, but I amended it so that it expires on 15 July 2025. The orders I made were:

> "1. The respondent, Stephen Nathaniel Williams, be released from custody and continues to be subject to the supervision order made by Justice Mullins on 12 July 2010 and as amended by Justice Applegarth on 10 August 2015.
>
> 2. Pursuant to s 24(2)(b) of the *Dangerous Prisoners (Sexual Offenders) Act* 2003 (the Act), the duration of the order be extended so that it expires on 13 April 2022.
>
> 3. Pursuant to s 22(7)(b) of the *Dangerous Prisoners (Sexual Offenders) Act* 2003 (the Act), the supervision order made by Justice Mullins on 12 July 2010 and as amended by Justice Applegarth on 10 August 2015, be amended to as follows:
>
> (a) amend order (1) by omitting the words '15 July 2020' currently in the order and inserting the following underlined words to read:
>
> (1) The respondent be subject to the following requirements until 15 July 2025."

[3] By force of s 24 of the Act, the supervision order had been extended because the respondent had, during the supervision order, been in custody serving sentences, or being held on remand. That explains order 2.

[4] Consistently with my recent reasons in *Attorney-General for the State of Queensland v Ruhland*,[2] the second order I made should not have extended the supervision order but should have declared that the supervision order was extended

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1 *Attorney-General for the State of Queensland v Williams* [2010] QSC 248.
2 [2020] QSC 33.

by force of the Act. It was appropriate then to rescind order 2 and make a declaration in these terms:

> "2. It is declared that pursuant to s 24(2)(b) of the *Dangerous Prisoners (Sexual Offenders) Act* 2003, the period of the respondent's supervision order has been extended to 13 April 2022."

[5] These are my reasons for making all the orders.

Statutory context

[6] The Act provides for the continued detention or supervised release of "a particular class of prisoner".[3] The objects of the Act are twofold, namely the protection of the community and the control, care and treatment of certain prisoners to facilitate their rehabilitation.[4] The prisoners the subject of the Act are those serving a term of imprisonment for a "serious sexual offence"[5] which is "an offence of a sexual nature … involving violence" or "an offence of a sexual nature … against a child".[6]

[7] Part 2 of the Act provides that the Attorney-General may apply to the Court for either a continuing detention order[7] or a supervision order.[8] A continuing detention order requires the detention in custody of the prisoner beyond the date of expiry of the sentence which they are then serving. A supervision order provides for the release of the prisoner under supervision notwithstanding the expiry of the sentence.

[8] Central to the scheme of the Act is s 13. Section 13 has significance to the present application as the provisions which deal with breaches of supervision orders[9] adopt terms and concepts included in s 13. The section is in these 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 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.
>
> (3) On hearing the application, the court may decide that it is satisfied as required under subsection (1) only if it is satisfied—

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3 *Dangerous Prisoners (Sexual Offenders) Act* 2003 s 3.
4 Section 3 and see generally *Fardon v Attorney-General (Qld)* (2004) 223 CLR 575.
5 Section 5(6).
6 Sections 2 and the Schedule (Dictionary).
7 Sections 13, 14 and 15.
8 Sections 13, 15 and 16.
9 Primarily see section 22.

(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—

(aa) any report produced under section 8A;

(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 requirements 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)—

(a) the paramount consideration is to be the need to ensure adequate protection of the community; and

(b) the court must consider whether –

(i) adequate protection of the community can be reasonably and practicably managed by a supervision order; and

(ii) requirements under section 16 can be reasonably and practicably managed by corrective services officers.

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

[9] Section 13A provides as follows:

"**13A Fixing of period of supervision order**

(1) If the court makes a supervision order, the order must state the period for which it is to have effect.

(2) In fixing the period, the court must not have regard to whether or not the prisoner may become the subject of—

(a) an application for a further supervision order; or

(b) a further supervision order.

(3) The period can not end before 5 years after the making of the order or the end of the prisoner's period of imprisonment, whichever is the later."

[10] Therefore:

(a) the test under s 13 is whether the prisoner is "a serious danger to the community";[10]

(b) that initial question is answered by determining whether there is an "unacceptable risk that the prisoner will commit a serious sexual offence"[11] if no order is made;

(c) if that conclusion is reached, then a supervision order (as opposed to a continuing detention order) can only be made where the adequate protection of the community can be ensured by the making of a supervision order;[12]

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10 Section 13(1).
11 Section 13(1) and (2).
12 Section 13(6).

(d) where the "adequate protection of the community" can be ensured by a supervision order, then the making of a supervision order ought to be preferred to the making of a continuing detention order.[13]

[11] Breach of a supervision order has consequences under Division 5 of Part 2 of the Act. Section 20 provides, relevantly:

> "**20 Warrant for released prisoner suspected of contravening a supervision order or interim supervision order**
>
> (1) This section applies if a police officer or corrective services officer reasonably suspects a released prisoner is likely to contravene, is contravening, or has contravened, a requirement of the released prisoner's supervision order or interim supervision order.
>
> (2) The officer may, by a complaint to a magistrate, apply for a warrant for the arrest of the released prisoner directed to all police officers and corrective services officers to arrest the released prisoner and bring the released prisoner before the Supreme Court to be dealt with according to law.
>
> (3) The magistrate must issue the warrant, in the approved form, if the magistrate is satisfied the grounds for issuing the warrant exist.
>
> (4) However, the warrant may be issued only if the complaint is under oath.[14]
>
> (6) The warrant may state the suspected contravention in general terms … ."

[12] Section 22 provides:

> "**22 Court may make further order**
>
> (1) The following subsections apply if the court is satisfied, on the balance of probabilities, that the released prisoner is likely to contravene, is contravening, or has contravened, a requirement of the supervision order or interim supervision order (each the existing order).
>
> (2) Unless the released prisoner satisfies the court, on the balance of probabilities, that the adequate protection of the community can, despite the contravention or likely contravention of the existing order, be ensured by the existing order as amended under subsection (7), the court must—

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13 *Attorney-General v Francis* [2007] 1 Qd R 396 at [39]; *Attorney-General (Qld) v Yeo* [2008] QCA 115; *Attorney-General v Lawrence* [2010] 1 Qd R 505; *LAB v Attorney-General* [2011] QCA 230; *Attorney-General for the State of Queensland v Ellis* [2012] QCA 182; *Attorney-General (Qld) v Fardon* [2013] QCA 64.

14 There is no subsection (5).

(a) if the existing order is a supervision order, rescind it and make a continuing detention order; or

(b) if the existing order is an interim supervision order, rescind it and make an order that the released prisoner be detained in custody for the period stated in the order.

(3) For the purpose of deciding whether to make a continuing detention order as mentioned in subsection (2)(a), the court may do any or all of the following—

(a) act on any evidence before it or that was before the court when the existing order was made;

(b) make any order necessary to enable evidence of a kind mentioned in section 13(4) to be brought before it, including, for example, an order—

(i) in the nature of a risk assessment order, subject to the restriction under section 8(2); or

(ii) for the revision of a report about the released prisoner produced under section 8A;

(c) consider any further report or revised report in the nature of a report of a type mentioned in section 8A.

(4) To remove any doubt, it is declared that the court need not make an order in the nature of a risk assessment order if the court is satisfied that the evidence otherwise available under subsection (3) is sufficient to make a decision under subsection (2)(a).

(5) If the court makes an order in the nature of a risk assessment order, the psychiatrist or each psychiatrist examining the released prisoner must prepare a report about the released prisoner and, for that purpose, section 11 applies.

(6) For applying section 11 to the preparation of the report—

(a) section 11(2) applies with the necessary changes; and

(b) section 11(3) only applies to the extent that a report or information mentioned in the subsection has not previously been given to the psychiatrist.

(7) If the released prisoner satisfies the court, on the balance of probabilities, that the adequate protection of the community can, despite the contravention or likely

> contravention of the existing order, be ensured by a supervision order or interim supervision order, the court—
>
> (a) must amend the existing order to include all of the requirements under section 16(1) if the order does not already include all of those requirements; and
>
> (b) may otherwise amend the existing order in a way the court considers appropriate—
>
> (i) to ensure adequate protection of the community; or
>
> (ii) for the prisoner's rehabilitation or care or treatment.
>
> (8) The existing order may not be amended under subsection (7)(b) so as to remove any requirements mentioned in section 16(1)."

[13] Proceedings upon a contravention or likely contravention of a supervision order are commenced by the issue of a warrant under s 20. In practice, the Attorney-General files an application seeking orders under s 22.[15]

[14] By s 22, once a contravention is proved, the Court shall rescind the supervision order and make a continuing detention order[16] unless the prisoner satisfies the Court that their continuation on supervision in the community will ensure the adequate protection of the community.[17] It is well established that the concept of "the adequate protection of the community" in s 22(7) has the same meaning as it bears in s 13.[18] Therefore, a prisoner facing an application under s 22 must prove that the supervision order will ensure adequate protection of the community by removing unacceptable risk that they will commit a serious sexual offence.

[15] The issue under s 22 of the Act is not whether there is an unacceptable risk that the respondent will breach the supervision order. The issue is whether there is an unacceptable risk that he will commit a serious sexual offence.[19]

Background

[16] The respondent is an Indigenous man born in 1972.

[17] The respondent's criminal history began with convictions in 1990 when he was 18. Whilst his offending was relatively consistent, it did not involve offences of a sexual nature until 2003.

[18] In October 2002, the respondent was convicted of wilful exposure. On that occasion, he urinated on a beach near a five year old child. He was not sentenced

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15 *Attorney-General (Qld) v Sands* [2016] QSC 225.
16 Section 22(2).
17 Section 22(7).
18 *Kynuna v Attorney-General (Qld)* [2016] QCA 172 at [60]; see also *Turnbull v Attorney-General* (Qld) [2015] QCA 54 at [36].
19 *Attorney-General (Qld) v Francis* [2012] QSC 275 at [64]-[67].

on the basis that there was a sexual element to that offence, but his offending escalated thereafter.

[19] In June 2003, he was convicted in the Cairns District Court in relation to various counts of indecent treatment of children under 16 years. Those offences involved no physical touching. The respondent exposed his penis to a number of girls aged under seven years who were known to him. He also masturbated in front of one of the complainants. In the District Court in 2003 he was also convicted of touching a child on her breasts. He received eight months' imprisonment in relation to those offences.

[20] In early 2005, the respondent committed the offence of rape and indecent treatment of a child under the age of 16. Both offences were committed against the same complainant.

[21] On 15 September 2006, the respondent was sentenced in relation to those offences in the District Court in Cairns. He was sentenced to four years' imprisonment in relation to the offence of rape and 12 months' imprisonment on the count of indecent treatment of the child. The sentences were ordered to be served concurrently.

[22] The 2003 and 2005 offences involved children, as did the offences the subject of convictions in July 2010. The complainant there was a 10 year old girl. The rape was constituted by the respondent inserting his finger into the child's vagina. The indecent treatment was particularised as rubbing her chest and nipples.

[23] The 2010 convictions were those which prompted the Attorney-General to make an application under the Act, and that culminated in Mullins J making the supervision order on 12 July 2010.[20]

[24] The psychiatric reports which supported the initial application identified two features which later became particularly important. Firstly, the offending was against young children. Secondly, the offending occurred while the respondent was under the influence of intoxicants.

[25] One of these two factors feature in each of the various breaches of the supervision order which have been committed by the respondent.

[26] The first breach occurred in November 2011. The respondent was charged under s 474.19 of the *Criminal Code Act* 1995 (Cth) of using a carriage service to access child pornography material. He was sentenced to a period of two and a half years' imprisonment, to be released upon recognisance after serving nine months on the condition that he be on good behaviour for four years. Unsurprisingly, that conduct also breached a condition of the supervision order. The respondent was released back on supervision on 24 November 2014.

[27] In 2015, the respondent again was found in possession of images of children and on 10 February 2015 was returned to custody. He was released back on the supervision order on 10 August 2015 by order of Applegarth J, who amended the

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20 *Attorney-General for the State of Queensland v Williams* [2010] QSC 248.

supervision order requiring the respondent to "abstain from illicit drugs for the duration of [the supervision order]".

[28] Again, the respondent accessed pornographic images of children and on 3 May 2016 was returned to custody. The respondent was released on a supervision order by order of Mullins J (as her Honour then was) on 10 October 2016.[21]

[29] A couple of months after being released from custody, the respondent ingested cannabis. That constituted a breach of the supervision order and on 2 December 2016 he was returned to custody. On 20 March 2017, he was released back into the community on the supervision order, by order of Daubney J.

[30] In May 2017, the respondent ingested Buprenorphine which constituted yet another breach of the supervision order and he was returned to custody on 26 May 2017. By force of the order of Mullins J made on 11 December 2017, he was again released into the community.

[31] The present contravention concerns the ingestion of cannabis. By the terms of the supervision order, the respondent was required to submit to drug testing which he did on 3 September 2019. On 5 September 2019, the result of the testing became available. That result was positive for cannabis and he was arrested and returned to custody on 6 September 2019. A search of the respondent's room at the Wacol precinct where he was living identified a small amount of cannabis and some drug paraphernalia.

[32] The respondent has admitted the breaches of the supervision order.

[33] On 4 February 2020, the matter was listed for hearing before Applegarth J. On the applicant's application, his Honour ordered that the matter be adjourned because three days earlier a random urine screening detected the presence of some drugs in the respondent's system. A final result of that screening was not available on 4 February 2020.

[34] On 21 February 2020, the applicant's counsel stated before me that the respondent had "tested positive to benzodiazepine for which he has a prescription, and also to buprenorphine, for which he does not have a prescription. The psychiatrists have been informed. They are of the view that the most recent breach does not elevate the risk of reoffending or certainly offending in a sexual way as contemplated by the Act".[22]

Psychiatric evidence

[35] For the purposes of the present application, the respondent was examined by Dr Scott Harden and Dr Michael Beech.

[36] Dr Harden made the following diagnoses:

> "He suffers from Paedophilia, attracted to females -- non-exclusive type. The access to child exploitation material confirms this pre-existing diagnosis.

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[21] *Attorney-General (Qld) v Williams* [2016] QSC 230.
[22] Transcript of hearing on 21 February 2020, 1-2.

> In my opinion he would still meet a diagnosis of Antisocial Personality Disorder, with a relative lack of emotional connectedness with other people and empathy associated with significant psychopathic personality features. These have probably improved slightly with age and therapy.
>
> He additionally suffers from Poly-Substance misuse in remission associated with incarceration and supervision.
>
> Although he has been diagnosed with a mood and/or psychotic disorder in other settings it is my opinion that it is more likely that his symptoms (depressive symptoms, anxiety symptoms, hallucinations and persecutory ideas about others) represent a facet of his severe personality disorder and previous exposure to trauma rather than a psychotic or mood disorder."

[37] Dr Beech also diagnosed paedophilia and made the following observations:

> "Stephen Williams is a 47-year-old indigenous man who was first placed on a DPSOA supervision order in 2010. He has a significant general criminal history but there had been three antecedent sentencing dates for offences against children. The nature of those offences indicated a progression from exposure, to persistent exposure, to digital penetration. He has reported it as a non-exclusive attraction to young girls, and his treating psychologist has noted entrenched distorted views about child sexuality and consent, and persisting deviant fantasies, all consistent with Paedophilia. It is likely that he has resorted to sexual offending in times of stress, and has used sex to cope with difficult situations and emotions. Matters are further aggravated by substance use and intoxication and personality disorder."

[38] Dr Lars Madsen, a psychologist who has a good deal of experience working with recidivist sex offenders, has been treating the respondent. Dr Harden and Dr Beech opined that this was significant and that continued treatment by Dr Madsen was desirable in order to reduce risk of reoffending.

[39] Dr Harden thought that future risk of sexual reoffending was high but could be managed under the supervision order. Dr Harden's concern though was that upon the expiry of the supervision order the respondent's risk would not have diminished to an acceptable level. Dr Harden, in his report, said:

> "If he is released from custody I would recommend that he be monitored in the community by means of a supervision order for the foreseeable future.
>
> In practical terms this means I recommend an extension of his supervision order for a further five years from July 2020.
>
> I would recommend that he not be allowed unsupervised contact with females under the age of 16 years under any circumstances.
>
> I would again recommend that he continue in individual psychological treatment. He has proven to be complex and difficult

> in individual treatment and I would recommend ongoing treatment by Dr Lars Madsen.
>
> He should have ongoing mental health service including psychiatric review. I am concerned that the current high dose of olanzapine may be producing some sedation, particularly when his [sic] on other sedating medications.
>
> I recommend that if he is released into the community that he continue to be placed at the Waco contingency accommodation precinct as this is the only precinct likely to be able to provide the level of monitoring and support required at this point in time.
>
> I would recommend that he continue to be required to be abstinent from alcohol and drug use and undergo an appropriate random testing regime when he is released into the community." (emphasis added)

[40] As to risk, Dr Beech opined:

> "In my opinion, despite the nine years of supervision and therapy, he remains at least moderately high risk of re-offending against a child without supervision. There is a need for further treatment.
>
> However, I think that the risk is managed with supervision. It is troubling that he requires a 24-hour curfew so far into a supervision order. I am uncertain though that I could recommend that he have unescorted leaves in the community at this stage.
>
> With supervision, and monitoring and escorts, I think the risk is substantially reduced to below moderate towards low. The task really is to get him to move on to unescorted leaves. I do not think that further treatment in custody will advance this issue any further; instead, he requires continued treatment with Dr Madsen, family and community supports, and a slow maturation with the development of appropriate stress management."

[41] Dr Madsen reported that he had engaged with the respondent in 22 clinical sessions since 2 May 2018. Dr Madsen reported that the respondent had engaged well in treatment and progress has been achieved. In particular, Dr Madsen observed:

> "As regards to sexual risk related matters, Mr Williams during our treatment has often appeared to talk openly about his sexual interest in children and the challenges that he experiences in regards to this. In our sessions he has also appeared to talk candidly about the thinking processes he has sometimes experienced in social contexts with female children present. These self-disclosures show that he, historically at least, had formed fairly well developed fantasy processes relating to female children. These ideas were maintained over time by a range of distorted perceptions relating to the nature of sexuality in children and the harm caused to children of sexual contact with adults. In our sessions Mr Williams is (now) able to articulate an intellectual understanding of the problems with his reasoning and thinking. He claims that this is something that has

> changed for the better since he has been in treatment in the community. Otherwise, Mr Williams describes low libido (ie masturbates once very couple of weeks, rarely watches pornography), and typically has utilised adult (conventional) pornography when he has masturbated."

Consideration

[42] The respondent has been the subject of a supervision order for almost 10 years. He has breached it on numerous occasions and has been returned to custody. However, while some of the breaches have had a sexual aspect to them,[23] there has been no sexual offending.

[43] Despite the contraventions, the supervision order has fulfilled its purpose of protecting the community against the commission of a serious sexual offence.

[44] While the respondent has not committed serious sexual offences whilst on supervision, his period on supervision has been regularly punctuated with periods in custody. He has not been in the community, under supervision, for any extended period of time. Dr Madsen's evidence, in my view, is very important. While he reports progress in the treatment of the respondent, the rehabilitation of the respondent is clearly ongoing. Both psychiatrists, as previously observed, emphasise the importance of the respondent receiving ongoing psychological treatment. Whether the respondent could be trusted to have the discipline to continue with treatment in the absence of a supervision order is severely doubtful.

[45] I accept the opinions of the psychiatrists that the supervision order ought to be extended until 15 July 2025.

[46] Section 24 of the Act provides:

> "**24 Period in custody not counted**
>
> (1) The released prisoner's supervision order or interim supervision order is suspended for any period the released prisoner is detained in custody on remand or serving the term of imprisonment.
>
> (2) The period for which the released prisoner's supervision order or interim supervision order has effect as stated in the order is extended by any period the released prisoner is detained in custody."

[47] When a prisoner, like the respondent, spends time in custody on remand or serving a sentence, the period of the supervision order is extended by force of s 24(2) by a period equivalent to that time in custody. That equates to 13 April 2022.

[48] The terms of order 2 which I made on 21 February 2020 was that the supervision order "be extended". The extension does not occur by exercise of judicial power but by force of the Act. As I explained in *Attorney-General for the State of Queensland v Ruhland*[24] the appropriate course is to declare the effect of the Act.

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23 Access to child pornography.

24 [2020] QSC 33.

[49] For those reasons, I made the orders which I did on 21 February 2020 and varied them on 20 March 2020.