

# SUPREME COURT OF QUEENSLAND

CITATION: *Attorney-General of Queensland v Harmatz* [2020] QSC 218

PARTIES: **ATTORNEY-GENERAL OF QUEENSLAND**  
(Applicant)  
**v**  
**HARMATZ, Shiloh Dakota William**  
(Respondent)

FILE NO/S: BS 7105/20

DIVISION: Trial Division

PROCEEDING: Application

ORIGINATING COURT: Supreme Court of Queensland

DELIVERED ON: 21 July 2020

DELIVERED AT: Brisbane

HEARING DATE: On the papers

JUDGE: Boddice J

ORDER: **Orders in terms of the draft.**

CATCHWORDS: CRIMINAL LAW – SENTENCE – SENTENCING ORDERS – ORDERS AND DECLARATIONS RELATING TO SERIOUS OR VIOLENT OFFENDERS OR DANGEROUS SEXUAL OFFENDERS – DANGEROUS SEXUAL OFFENDER – where the applicant seeks orders pursuant to s 8 of the *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld) for the respondent to be assessed by two psychiatrists – whether there are reasonable grounds for believing the respondent is a serious danger to the community

*Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld), s 8

*Child Protection (Offending Reporting and Offender Prohibition Order) Act 2004* (Qld)

COUNSEL: G R Cooper for the applicant  
M Bowie for the respondent

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

[1] The applicant seeks orders, pursuant to section 8 of the *Dangerous Prisoners (Sexual Offenders) Act 2003*, for the respondent to be assessed by two psychiatrists. If granted, the applicant will, in due course, seek orders for the respondent's continued detention or release, subject to a supervision order, under that Act.

## **Background**

- [2] The respondent was born on 17 July 1995. He is currently aged 24 years.
- [3] On 27 June 2016, the respondent was convicted, on his own pleas of guilty, of multiple sexual and drug offences. The complainants were children aged 12 to 15 years. He was sentenced to an effective head sentence of three years' imprisonment.
- [4] In respect of some offences, the imprisonment was ordered to be suspended for an operational period of four years, after serving 274 days in custody. In respect of other offences, the respondent was ordered to be released on parole. Some 274 days in presentence custody was declared as time served in respect of those sentences.
- [5] Although the respondent was released on parole on 27 June 2016, his parole was cancelled on 2 October 2016 as a consequence of reoffending on 27 July 2016. The respondent was sentenced to six months' imprisonment for that reoffending, on 10 October 2016.
- [6] On 19 December 2016, the respondent was convicted of breaching the suspended sentences imposed on 27 June 2016 by the commission of those further offences. The balance of those terms were activated in full.
- [7] On 5 November 2018, the respondent was convicted of further sexual offences against children. He was sentenced to an effective head sentence of 18 months' imprisonment, to be served cumulatively on his current sentences of imprisonment. A parole eligibility date was set at 5 November 2018.
- [8] On 19 December 2018, the respondent was convicted of failing to comply with the reporting requirements of the *Child Protection (Offending Reporting and Offender Prohibition Order) Act 2004*. A conviction was recorded but he was otherwise not further punished.
- [9] The respondent is currently serving those sentences of imprisonment. He is due for release on 17 November 2020.

## **Application**

- [10] If the Court is satisfied that there are reasonable grounds for believing the respondent, a prisoner, is a serious danger to the community, in the absence of orders being made for his ongoing detention or release on supervision pursuant to provisions of the Act, the respondent may be ordered to undergo psychiatric examination by way of a risk assessment order.
- [11] The applicant contends there are reasonable grounds for the requisite belief. Reliance is placed upon a report prepared by Dr Beech, Psychiatrist, dated 27 June 2018, together with an addendum report dated 27 May 2020.
- [12] In undertaking his assessment, Dr Beech had regard to the respondent's performance on treatment programs and his conduct in prison. Dr Beech observed

that the respondent's insight into his offending was limited and his remorse shallow. The respondent also had significant anti-social and psychopathic traits.

- [13] Dr Beech opined that, having regard to the extent, density, chronicity and persistence of the respondent's offending, the respondent would be a high risk of reoffending if released into the community without supervision.
- [14] In coming to that conclusion, Dr Beech noted the persistent nature of the respondent's past sexual offending against children.

### **Conclusions**

- [15] The respondent's initial offending, which occurred when the respondent was still a teenager, involved behaviour designed to illicit sexual favours. It included grooming and procuring a child for sexual acts. There was actual carnal knowledge of a child under 16 years. Some of the conduct was undertaken by coercion.
- [16] Notwithstanding sentences of imprisonment being imposed for that offending, the respondent committed further sexual offences shortly after release from custody. Those offences included communicating with a 15 year old female child, and sending a photograph of his exposed penis. That conduct was undertaken in breach of the terms of the sentences of imprisonment that had been suspended, for an operational period of four years.
- [17] The respondent was subsequently convicted of numerous further sexual offences against children. Some of those offences were committed subsequent to the sentences being imposed for the earlier sexual offending.
- [18] In determining the present application, the Court does not have to be satisfied that the respondent is, in fact, a serious danger to the community, in the absence of orders being made under the Act. The applicant must satisfy the Court that there are reasonable grounds for believing the respondent is a serious danger to the community, in the absence of such an order.
- [19] Having considered the material, I am satisfied that the applicant has established that there are reasonable grounds for believing that the respondent is a serious danger to the community, in the absence of an order under the Act.
- [20] A consideration of Dr Beech's report, as well as other relevant medical psychiatric and psychological assessments, together with the consideration of the pattern of the respondent's offending, his performance in prison and on programs, his antecedence, criminal history and the need to protect members of the community, amply support a conclusion that there are reasonable grounds for believing there is an unacceptable risk that the respondent, if released from custody without such an order, will commit serious sexual offences against children.

### **Orders**

- [21] I make orders in terms of the draft, which I initial and place with the papers.