

# SUPREME COURT OF QUEENSLAND

CITATION: *Attorney General for the State of Queensland v Friend* [2006] QSC 131

PARTIES: **ATTORNEY GENERAL FOR THE STATE OF QUEENSLAND**  
(applicant)  
v  
**ROY FRIEND**  
(respondent)

FILE NO/S: BS883 of 2006

DIVISION: Trial Division

PROCEEDING: Application

ORIGINATING COURT: Supreme Court, Brisbane

DELIVERED ON: 2 June 2006

DELIVERED AT: Brisbane

HEARING DATE: 18 May 2006

JUDGE: Moynihan J

ORDER: **1. That the respondent is a serious danger to the community and that he be released from custody subject to the conditions of exhibit 3, deleting (y).**

CATCHWORDS: CRIMINAL LAW- JURISDICTION, PRACTICE AND PROCEDURE - JUDGMENT AND PUNISHMENT - OTHER MATTERS – where respondent finished sentence for sexual offences- where application made under s13 *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld) for a supervision order not opposed by respondent- whether respondent is a serious danger to the community in the absence of a division 3 order- whether conditions of the supervision order appropriate.  
*Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld).

COUNSEL: J M Horton for the applicant  
R A East for the respondent

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

[1] **MOYNIHAN J:** This is an application by the Attorney-General pursuant to s13 of *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld) ('the Act') for a division 3 order that the respondent is a serious danger to the community and for

consequential orders. The respondent is clearly a prisoner within the meaning of the Act.<sup>1</sup>

[2] The objects of the Act are:

- a. “to provide for the continued detention custody or supervised release of a particular class of prisoner to ensure adequate protection of the community; and
- b. to provide continuing control, care or treatment of a particular class of prisoner to facilitate their rehabilitation”.<sup>2</sup>

[3] If, on the hearing of such an application, the court is satisfied that the prisoner is a serious danger to the community<sup>3</sup> the court may order that the prisoner be released from custody subject to the conditions it considers appropriate as stated in the order.<sup>4</sup>

[4] The applicant did not contend for continuing detention. There is no issue that a supervision order should be made and the evidence justifies it. The terms of the draft supervision order<sup>5</sup>, paragraph (y) aside, is appropriate in the circumstances. For these reasons there is no need to canvas it in detail.

[5] Paragraph (y) of the draft supervision order, exhibit 3, states that the respondent must: ‘abstain from consuming alcohol for the duration of this order’. The duration of the order proposed is 10 years until 02 June 2016.

[6] There is some evidence that there was a period of approximately 9 months in which the respondent may have had a problem with alcohol use. The evidence does not identify precisely when this occurred or its consequences, but it was a long time ago. There is no evidence that this activity contributed to the respondent’s offending behaviour. It seems to have been a product of his circumstances at the particular time.

[7] Submissions have been made by counsel for the respondent to allow for moderate drinking. To allow for the sort of drinking involved in normal social intercourse that may assist the respondent in readjusting to life in the community. There is merit in that claim.

[8] Counsel for the applicant raised concerns that in the reports of independent psychiatric evaluations specific recommendations had been made to the effect that the respondent abstain from alcohol. More generally the applicant contended that alcohol has a disinhibiting influence which is not beneficial to a person who suffers from paedophilia. Specifically, that some of the offences occurred in the company of another sexual offender, and a disinhibiting influence on a man of “unstable sense of self, passivity and anxiety” may increase the risk of re-offending.

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<sup>1</sup> S5(6) of the Act

<sup>2</sup> s3 of the Act

<sup>3</sup> s13(1)-4) of the Act

<sup>4</sup> s13(5)(b) of the Act

<sup>5</sup> Exhibit 3

- [9] The proposed order contains a number of other conditions which address those concerns. The supervising officer has the power to issue directions designed to deal with the concerns about his use of alcohol if that was indicated, for example to submit to tests, or to undertake a program. See conditions (k), (aa), (bb), (dd), (ee). These conditions required the respondent to submit to random drug and alcohol tests, attend a psychiatrist and therapy or counselling sessions and to undergo medical testing.
- [10] It is desirable that the conditions are not so onerous that they, in effect, are setting the respondent up to fail by not enabling him to engage in normal societal behaviour.
- [11] Bearing these considerations in mind it is my view condition (y) can be dispensed with.
- [12] This being the position I am satisfied the respondent is a serious danger to the community and that he be released from custody subject to the conditions of exhibit 3, deleting (y).