

SUPREME COURT OF QUEENSLAND

CITATION: *A-G (Qld) v Francis* [2006] QCA 372

PARTIES: **ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND**
(applicant/respondent)
v
DARREN ANTHONY FRANCIS
(respondent/appellant)

FILE NO/S: Appeal No 452 of 2006
SC No 3069 of 2004

DIVISION: Court of Appeal

PROCEEDING: General Civil Appeal - Further Hearing

ORIGINATING COURT: Supreme Court at Brisbane

DELIVERED EX TEMPORE ON: 26 September 2006

DELIVERED AT: Brisbane

HEARING DATE: 26 September 2006

JUDGES: Keane and Holmes JJA and Dutney J
Judgment of the Court

ORDER:

1. **In addition to the orders 1 and 2 made by the Court on 30 August 2006 [*A-G (Qld) v Francis* [2006] QCA 324], the Court now makes orders generally in terms of Exhibit VP1 to the affidavit of Vicki Parker dated 20 September 2006, but subject to the following:**
 - (a) **order 2 should be amended by the addition of the words "as and from 4pm on 28 September 2006";**
 - (b) **order 3 should be amended by the addition of the words "28 September 2012";**
 - (c) **condition (iii) should be amended to read:**
"Reside at the accommodation currently agreed between the Chief Executive Officer of Brisbane Boarders Association Inc and the Department of Corrective Services and thereafter at such other places within the State of Queensland as may be approved by a Corrective Services Officer by way of a suitability assessment";
 - (d) **to condition (xxi), add the words "without the prior permission of the Supervising Corrective Services**

Officer";

(e) to condition (xxii), after "attend" add "Dr Tom Hogan or such other";

(f) in conditions (xxiv) and (xxv), the reference to the direction "by the treating psychiatrist and the Supervising Corrective Services Officer" should be deleted, and in lieu thereof, the words "by decision of the treating psychiatrist and the Supervising Corrective Services Officer".

- 2. The Order on costs is reserved; leave granted to Mr Cooke QC to submit written submissions on costs within 7 days; Mr Hinson SC then having 7 days to submit written submissions in response.**
- 3. The Court orders that the affidavit of Walter John Ogle sworn 26 September 2006 be sealed and placed in an envelope and kept on the court file, not to be opened save by an order of the Court or a Judge.**

CATCHWORDS: STATUTES - ACTS OF PARLIAMENT - INTERPRETATION - *Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld)* - appellant convicted of violent sexual offences against two women - order made that the appellant be detained after his sentence expired - upon review further order made that the appellant continue to be subject to the continuing detention order - further order set aside by this Court after initial hearing - this hearing ordered to allow evidence to be placed before the Court - whether it is desirable and feasible to make an order under s 13(5)(b) of the *Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld)*

Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld), s 13

COUNSEL: N M Cooke QC, with M J Rinaudo-Lewis, for the appellant
M D Hinson SC, with M Maloney, for the respondent

SOLICITORS: Aboriginal & Torres Strait Islander Legal Service for the appellant
Crown Law for the respondent

KEANE JA: The reasons which I am about to read are the reasons of the Court. On 30 August 2006, the Court allowed the appeal in this matter for reasons which were published on

that date (see [2006] QCA 324). These further reasons should be read with those reasons.

Because of the delay which occurred between the decision of the learned primary judge and the present, this Court received further evidence in order to determine whether it would be appropriate now to make a supervision order under section 13(5)(b) of the Act.

The further evidence which has been provided confirms that accommodation with Brisbane Boarders Association Inc of the kind discussed in our reasons of 30 August 2006, will be available to the appellant and that the appellant is willing to accept that accommodation. The appellant is also willing to continue therapy with Dr Hogan.

The further evidence does not suggest the Department will be unable to provide supervision at a level which is apt to secure observance by the appellant of the conditions for the conditions which we propose to impose on the supervision order.

The order should operate for a period of six years. The conditions to which the appellant will be subject under it are very restrictive. If the appellant complies with these restrictions for this further period of time, the risk which he would then pose to the community is likely to be very low indeed.

For these reasons then and the reasons given on 30 August 2006:

1. In addition to the orders 1 and 2 made by the Court on 30 August 2006, the Court now makes orders generally in terms of Exhibit VP1 to the affidavit of Vicki Parker dated 20 September 2006, but subject to the following:
 - (a) order 2 should be amended by the addition of the words "as and from 4 pm on 28 September 2006";
 - (b) order 3 should be amended by the addition of the words "28 September 2012";
 - (c) condition (iii) should be amended to read:

"Reside at the accommodation currently agreed between the Chief Executive Officer of Brisbane Boarders Association Inc and the Department of Corrective Services and thereafter at such other places within the State of Queensland as may be approved by a Corrective Services Officer by way of a suitability assessment";
 - (d) to condition (xxi), add the words "without the prior permission of the Supervising Corrective Services Officer" (and I pause to mention the purpose of that addition is to enable Mr Francis to get permission to visit licensed premises in advance of doing so);
 - (e) to condition (xxii), after the word "attend" add the words "Dr Tom Hogan or such other";
 - (f) in conditions (xxiv) and (xxv), the reference to the direction, "by the treating psychiatrist and the Supervising Corrective Services Officer" should be deleted, and in lieu thereof, the words "by decision of the treating psychiatrist and the Supervising Corrective Services Officer".
2. The Order on costs is reserved; leave is granted to Mr Cooke QC to submit written submissions on costs within 7 days; Mr Hinson SC then having 7 days to submit

written submissions in response.

3. The Court orders that the affidavit of Walter John Ogle sworn 26 September 2006 be sealed and placed in an envelope and kept on the court file, not to be opened save by an order of the Court or a Judge.
