

SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

MULLINS J

No 6295 of 2008

ATTORNEY-GENERAL FOR THE STATE  
OF QUEENSLAND

Applicant

and

TERRY JOHN KONDOS

Respondent

BRISBANE

..DATE 19/11/2008

ORDER

HER HONOUR: This is an application by the Attorney-General under the Dangerous Prisoners (Sexual Offenders) Act, 2003, in relation to the respondent, Terry John Kondos. Mr Kondos is 48 years old. On 2 August 1995 he was sentenced before Senior Judge Hanger of the District Court. The respondent pleaded guilty to 31 offences which were of a sexual nature involving adolescent boys. The complainants were mainly between 14 to 15 years old at the time of the offending. There were one or two who were around the age of 12 years.

Mr Kondos' fulltime discharge date is 24 December 2008. He was sentenced, in effect, to a term of imprisonment for 14 years. His offending occurred over a period of time when he was aged between 21 and 30 years old. It appears, though, that rather than the offences being continuous over that period, there was one set of offending involving four victims in the first few years. There was a gap of a couple of years, and then there was the second set of offences involving one of the younger boys and a couple of 15 year old boys.

In order to put the offending in context I will refer briefly to some of the respondent's background. During his childhood his parents were distant with each other and with him. They subsequently separated. He lived with his mother. His relationship with his mother was problematic. He has one sister, but she does not figure in his support network now and did not seem to figure as a supportive figure during his years of growing up. He was equivocal and confused about his sexuality.

At age 15 he committed an offence that was the subject of an aggravated sexual assault charge against a boy who was about 12 years. He was dealt with in the Juvenile Justice system and not incarcerated. He was educated to year 12 and does not appear to have had any difficulty in obtaining employment. His mother had an alcohol problem and was abusive towards him.

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He was married in his early 20s for a period, but the relationship with his wife was not close. In fact, the first set of offending was committed whilst he was married. He was conducting a small business as the shop owner. He took advantage of his position in dealing with young boys who came to the shop. With the benefit of hindsight, the psychiatrists have been able to describe in detail his activities of grooming. His offending escalated over time. He became bolder in his dealing with the boys, and in the shortened time period of his grooming.

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His offences to which he pleaded guilty included maintaining an unlawful relationship of a sexual nature with a child under the age 16 years. This relationship with his first victim lasted for over 2 years. He was also charged with many counts of indecent dealing, and permitting himself to be dealt with indecently. Part of his grooming was photographing the boys and progressively having them remove their clothes. He was therefore charged with offences such as taking indecent photographs of a child under the age of 16 years.

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He administered benzodiazepine to one or two of the boys, and was charged with administering a stupefying drug with intent to commit an indictable offence.

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His first business failed, and his marriage failed. It was when he had started another business that he commenced the grooming again and committed the second lot of offences.

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What is notable about the psychiatric reports in relation to Mr Kondos is that at the time he offended he had no feelings of empathy for his victims. He was concerned only with his own sexual gratification. He was able to rationalise his conduct to justify it to himself. At the time he was charged with the offences, he was not remorseful in any way for his conduct.

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For the purpose of considering whether or not this application should be made, Dr Grant, a psychiatrist, interviewed the respondent for two and a half hours on 18 January 2008. After this application was made, on the basis of orders made by the Court, psychiatrists Drs Beech and Moyle interviewed the respondent for extensive periods and have provided reports to the Court. On the hearing of the application today, oral evidence was also given by Drs Beech and Moyle. I have found this psychiatric evidence of great assistance on this application.

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Doctor Grant considered that the respondent would be of low to moderate risk of reoffending in a sexual way upon release

without the assistance of supervision. Doctor Grant summarised the file of the Department of Corrective Services in relevant respects.

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During the hearing today there was a difference in emphasis between Dr Moyle and Dr Grant in how one event in the respondent's history was treated.

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Although Dr Grant did not give evidence, or was unavailable to give evidence today, I consider his analysis of the incident involving the respondent at the Palen Creek Correctional Centre in February 2002, and his conclusion to be convincing, rather than the inferences that Dr Moyle drew from the same incident which seemed to be based on some speculation rather than taking into account the actual position that the respondent was unaware of the entry in his prison records on which Dr Moyle placed some weight. The fact that the respondent was transferred back to Palen Creek on appealing against his transfer from that correctional centre to Wolston Prison after a few weeks, and was never required to respond to any investigation or proceeding as a result of the particular entry, satisfies me that it is appropriate to proceed on the basis of Dr Grant's conclusion that the respondent's account of that incident is supported by the fact that there was no other documentation in the file that related to the particular matter, and no formal breach was recorded on the file.

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Mr Rolls of counsel, who appears for the Attorney-General on this application, has not referred to this incident in his

extensive written submissions in any adverse way for the respondent, and has not suggested that I should act otherwise than in accordance with Dr Grant's summary relating to the matter.

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Notwithstanding that, I have found the other aspects of Dr Moyle's report to be of assistance, together with his further oral evidence today, as I have also found the extensive report from Dr Beech and his further oral evidence today.

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I will briefly mention some of the courses that the respondent has undertaken whilst in prison.

He undertook the Preparation For Intervention course. In 1999 he completed the Sexual Offenders Treatment Program.

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Relevantly, he has also undertaken the Cognitive Skills Program, the Sexuality in Human Relationships course, the Drug and Alcohol Core Program, and the Intimate Relationships Program. In more recent times the respondent completed the Sexual Offenders' Maintenance Program.

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He has been noted as participating positively in the sexual offending treatment programs, and in embracing the concepts that are imparted in those programs with a view to assisting offenders such as the respondent in gaining insight into the causes of their past offending, and the strategies that they must implement in order to avoid future offending.

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The respondent, until he was considered by the Department of Corrective Services for an application under the Dangerous Prisoners (Sexual Offenders) Act, was allowed to undertake day leave from about June 2000 until about 18 months ago. That leave, even though it had been successful, was terminated because of the making of this application.

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At the time Dr Grant saw the respondent, he had successfully had a total of about 70 day leaves, involving about nine and a half hours each time, which the respondent had spent in the company of his father, both at his father's house but also on social outings. Doctor Grant noted that the respondent had said those outings had been of assistance to him in adjusting to the changes that would be necessary for him to make on his release from prison, but that sort of transitional assistance was terminated, as I said, when this application was foreshadowed.

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During the respondent's time in prison, he has been in employment in the prison, and for many years in a position of responsibility. He has avoided disciplinary or breaching problems.

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The confusion that he has had about his sexuality upon entering prison has been resolved. He has accepted his homosexuality and that has assisted him in formulating his Relapse Prevention Plan. The respondent has the support of two family members on his release.

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The Relapse Prevention Plan that he proposes has been considered by each of the psychiatrists who are positive about its contents and the respondent's ability to understand the need to comply with it.

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Each of the psychiatrists supports the making of a supervision order in relation to the respondent. Although the application by the Attorney-General has been formulated in terms of seeking either a continuing detention order, or a supervision order, counsel for the Attorney-General ultimately submitted that on the material before the Court, adequate protection of the community will be ensured by the making of a supervision order.

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The respondent, through his counsel, accepts that a Division 3 order should be made in relation to him, and has had explained to him the terms of the proposed supervision order that the psychiatrists have considered and that has been put before the Court by the Attorney-General.

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The respondent has conveyed to the Court, through his counsel, that he considers the proposed supervision order will assist him in implementing his Relapse Prevention Plan, and accepts the supervision order will be an important part of the regime that assists him in not committing any further sexual offending on his release.

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Doctor Beech in his report identified six factors as pertinent to the risk of further sexual offending being committed by the

respondent. They are:

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- sexual deviance with an attraction to adolescent males;
- the use of psychological coercion and grooming;
- the use of physical coercion by way of using stupefying agents;
- chronic and persistent offending over nine years with many victims;
- problems resulting from childhood emotional neglect;
- problems in intimate relationships.

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Doctor Beech diagnosed the respondent's sexual deviance as the paraphilia hebephilia. Doctor Beech explained that this is in distinction to pedophilia which is more the attraction to prepubescent children; Dr Beech noted that the respondent's predilection was for young males.

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Doctor Beech considered that the respondent represented a moderate risk of reoffending in the future given his relative youth, his deviance, and his capacity to groom victims.

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Doctor Beech identified the importance of the respondent being supported in developing adult relationships and that he would be assisted by stable accommodation, work, and appropriate social engagement.

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Doctor Beech has highlighted the importance for the respondent that he should not form any relationships with minors, and that the monitoring should be addressed at ensuring that the respondent's ability to associate with young males is

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restricted.

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In oral evidence, Dr Beech considered that 10 years was an appropriate time for the supervision order. Because the respondent's history showed him as an extrafamilial child sex offender, Dr Beech stated that placed him in the category of sex offenders who are most likely to continue offending despite advancing years. Although there is no exact science about the period of the detention order, Dr Beech noted that it had to be sufficiently long to cover a period of time where the respondent might be placed in a position where he was affected by the factors that put him at risk such as feeling isolated, or stressed.

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Doctor Moyle also supported the making of a supervision order for a period of 10 years, and agreed with Dr Beech that because of the respondent falling into the category of extrafamilial child sex offender against male victims, disregarding personal characteristics, he was in the category of sex offender that is most likely to reoffend.

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Doctor Moyle considered that if the respondent has stable accommodation and employment and adult company on his release, his risk of reoffending will lessen from a moderately high risk to a moderately low risk.

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Doctor Moyle noted that with supervision and stable lifestyle, with the supports Dr Moyle has indicated are essential for the respondent, his risk of reoffending against youthful males

will lessen with each year after release that he does not reoffend.

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Although counsel for the Attorney-General and the respondent both submit in favour of the supervision order that has been made Exhibit 5 on the hearing of this application, I cannot make any order in this matter unless I am satisfied of the matters that are stipulated in the Act.

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I can make a decision that I am satisfied the respondent is a serious danger to the community in the absence of a Division 3 order only if I am satisfied by acceptable cogent evidence and to a high degree of probability that the evidence is of sufficient weight to justify the decision. I am required to have regard to the matters that are set out in section 13 subsection (4) of the Act.

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Those matters have been addressed in detail in the material that is relied on by the Attorney-General on this application. The evidence of Drs Grant, Beech and Moyle is acceptable and cogent satisfies me to the high degree of probability that is required under the Act that the respondent's moderate risk of sexual reoffending, unless appropriately supervised, is an unacceptable risk in terms of section 13 subsection (2) of the Act.

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In light of the psychiatric evidence, I am also satisfied that appropriate conditions can be formulated for a supervision order that will address the need to ensure the adequate

protection of the community, and that a supervision order  
should be made for a period of 10 years.

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I therefore make an order in terms of the draft initialled by  
me, and placed with the file.

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