# SUPREME COURT OF QUEENSLAND

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| CITATION: | *Attorney-General for the State of Queensland v Saunders* [2009] QSC 248 |
| PARTIES: | **ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND**<br>(Applicant)<br>v<br>**STANLEY JAMES SAUNDERS**<br>(Respondent) |
| FILE NO/S: | BS 4359/09 |
| DIVISION: | Trial Division |
| PROCEEDING: | Application |
| DELIVERED ON: | 26 August 2009 |
| DELIVERED AT: | Brisbane |
| HEARING DATE: | 24 August 2009 |
| JUDGE: | Philippides J |
| ORDER: | **That pursuant to s 13(5)(b) of the *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld) the respondent be released subject to the terms of a supervision order.** |
| CATCHWORDS: | CRIMINAL LAW – JURISDICTION, PRACTICE AND PROCEDURE – JUDGMENT AND PUNISHMENT – SENTENCE – MISCELLANEOUS MATTERS – SEXUAL OFFENDERS –where an application by the Attorney-General for an order pursuant to Division 3 of the *Dangerous Prisoners (Sexual Offenders) Act 2003* – whether the respondent is a serious danger to the community under s 13 of the *Dangerous Prisoners (Sexual Offenders) Act 2003* – whether respondent should be subject to a supervision order<br><br>*Dangerous Prisoners Sexual Offences Act* 2003 (Qld), s 13.<br>*Attorney-General for the State of Queensland v Lawrence* [2009] QCA 136.<br>*Attorney-General for the State of Queensland v Sutherland* [2006] QSC 268.<br>*Attorney-General for the State of Queensland v Waghorn* (2006) QSC 171.<br>*Fardon v Attorney-General (Qld)* [2004] HCA 46. |
| COUNSEL: | Mr J Rolls for the applicant<br>Mr J Allen for the respondent |
| SOLICITORS: | G R Cooper Crown Solicitor for the applicant<br>Legal Aid Queensland for the respondent |

**PHILIPPIDES J:**

[1] The applicant, the Attorney-General for the State of Queensland, seeks an order pursuant to s 13 of the *Dangerous Prisoners Sexual Offences Act* 2003 (Qld) ("the Act"). The orders sought are that the respondent be detained in custody for an indefinite term for care, treatment or control, or alternatively, that he be released from custody subject to such conditions as the court considers appropriate. However, it was the submission of counsel for both the applicant and the respondent that, given the uncontested evidence adduced, the latter of these alternatives is, in this case, open and appropriate.

[2] The respondent is an Aboriginal man, born on 1 June 1970 in Rockhampton. He is currently serving a term of 12 years and two months imprisonment at Capricornia Correctional Centre for multiple offences, including four counts of rape and multiple counts of indecent assault. His custodial sentence end date is 8 October 2009.

**The Statutory Scheme**

[3] The scheme established under the Act allows for the continued detention in custody or supervised release of prisoners who are deemed to be at risk of committing serious sexual offences if released at all, or if released without appropriate supervision.

[4] The relevant matters for the court's consideration in relation to "Division 3 orders", are provided for in s 13 which states**:**

> "**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 will commit a serious sexual offence—
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> (a) if the prisoner is released from custody; or
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> (b) if the prisoner is released from custody without a supervision order being made.
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> (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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> (a) by acceptable, cogent evidence; and
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> (b) to a high degree of probability;
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> that the evidence is of sufficient weight to justify the decision.
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> (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—

(a) the reports prepared by the psychiatrists under section 112 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 conditions 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), the paramount consideration is to be the need to ensure adequate protection of the community.

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

[5] I respectfully adopt the observations of McMurdo J in *Attorney-General for the State of Queensland v Sutherland*,[1] as to the "correct approach" in considering applications of this type:

> "[26] No order can be made unless the court is satisfied that the prisoner is a serious danger to the community. But if the court is satisfied of that matter, the court may make a

[1] [2006] QSC 268 at [26] to [30]; see also *Attorney General for the State of Queensland v Edwards* [2007] QSC 396.

continuing detention order, a supervision order or no order[2]. There is no submission here that if the prisoner is a serious danger to the community, nevertheless no order should be made. As already mentioned, it is conceded on behalf of the prisoner that I could be satisfied in terms of s 13(1) and that a supervision order would be appropriate.

[27] The court can be satisfied as required under s 13(1) only upon the basis of acceptable, cogent evidence and if satisfied 'to a high degree of probability that the evidence is of sufficient weight to justify the decision.' Those requirements are expressed within s 13(3) by reference to the decision which must be made under s 13(1). They are not made expressly referable to the discretionary decision under s 13(5). The paramount consideration under s 13(5) is the need to ensure adequate protection of the community. Subsection 13(7) provides that the Attorney-General has the onus of proving the matter mentioned in s 13(1). There is no express requirement that the Attorney-General prove any matter for the making of a continuing detention order, beyond the proof required by s 13(1). So s 13 does not expressly require, precedent to a continuing detention order, that the Attorney-General prove that a supervision order would still result in the prisoner being a serious danger to the community, in the sense of an unacceptable risk that he would commit a serious sexual offence. However in my view, such a requirement is implicit within s 13.

[28] The paramount consideration is the need to ensure adequate protection of the community. But where the Attorney-General seeks a continuing detention order, the Attorney-General must prove that adequate protection of the community can be ensured only by such an order, or in other words, that a supervision order would not suffice. The existence of such an onus in relation to s 13(5) appears from Attorney-General v Francis[3] where the Court allowed an appeal from a judgment which had made a continuing detention order upon the primary judge's view that the Department of Corrective Services would not provide sufficient resources to provide effective supervision of the prisoner upon his release. The Court found an error in that reasoning because of the absence of evidence that the resources would not be provided[4]. The Court observed[5]:

> 'The question is whether the protection of the community is adequately ensured. If supervision of the prisoner is apt to ensure adequate protection, having regard to the risk to the

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2 *Fardon v Attorney-General (Qld)* [2004] HCA 46 at [19], [34]; (2004) 78 ALJR 1519 at 1524, 1527; cf in relation to s 30 *Attorney-General (Qld) v Francis* [2006] QCA 324 at [31].

3 [2006] QCA 324.

4 [2006] QCA 324 at [37].

5 [2006] QCA 324 at [39].

> community posed by the prisoner, then an order for supervised release should, in principal, be preferred to a continuing detention order on the basis that the intrusions of the act upon the liberty of the subject are exceptional, and the liberty of the subject should be constrained to no greater extent than is warranted by the statute which authorised such constraint.'
>
> Thus the absence of evidence of the inadequacy of resources was important because that matter had to be proved, as a step in persuading the court that only continuing detention would suffice.
>
> [29] The Attorney-General must prove more than a risk of re-offending should the prisoner be released, albeit under a supervision order. As was also observed in Francis, a supervision order need not be risk free, for otherwise such orders would never be made[6]. What must be proved is that the community cannot be adequately protected by a supervision order. Adequate protection is a relative concept. It involves the same notion which is within the expression 'unacceptable risk' within s 13(2). In each way the statute recognises that some risk can be acceptable consistently with the adequate protection of the community.
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> [30] The existence of this onus of proof is important for the present case. None of the psychiatrists suggests that there is no risk. They differ in their descriptions of the extent of that risk. But the assessment of what level of risk is unacceptable, or alternatively put, what order is necessary to ensure adequate protection of the community, is not a matter for psychiatric opinion. It is a matter for judicial determination, requiring a value judgement as to what risk should be accepted against the serious alternative of the deprivation of a person's liberty."

[6] The respondent can be detained pursuant to the Act for care, treatment or control, such notions being disjunctive.[7] The paramount consideration in determining whether to make a continuing detention order or supervision order is the need to ensure adequate protection of the community: s 13(6). It is not the function of this application to inflict further punishment upon the respondent. The purpose of orders are preventative and for the protection of the community: *Fardon v Attorney-General (Qld);*[8] *Attorney-General for the State of Queensland v Waghorn*.[9] The onus of demonstrating that a supervision order affords inadequate protection to the community is on the applicant: see *Attorney General for the State of Queensland v Lawrence*.[10]

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6 [2006] QCA 324 at [39].

7 See *Attorney-General for the State of Queensland v Francis* [2007] 1 Qd R 396 at [28]; *Attorney-General for the State of Queensland v Lawrence* [2009] QCA 136 at [18] – [19].

8 [2004] HCA 46 at [19], [34].

9 (2006) QSC 171

10 [2009] QCA 136

**Current Offences**

[7] On 21 August 1997, the respondent was convicted of multiple offences, including four counts of rape, and multiple counts of indecent assault. The offences concern an incident where the respondent, in the company of two co-offenders, offered to drive the victim to see her boyfriend who had been placed in the watch-house earlier in the night due to a drink driving charge. The group had been drinking and socialising with other friends earlier that evening. However, instead of driving the victim to the watch-house as they had offered, the three co-offenders drove the victim to an isolated area out of town. They stopped on the side of a road and asked her to remove her clothing. When she declined they beat her. Over the following hours the three repeatedly raped, sodomised and forced her to engage in oral sex. The next morning the victim was driven to the home of a co-offender where she was further raped and assaulted.

[8] The respondent pleaded not guilty to all offences, but was found guilty, along with his two co-offenders, after a lengthy trial. He maintained that the incident was entirely of a consensual nature and minimised his offending by blaming the alcohol which had been consumed by all offenders that evening.

**Previous offences**

[9] The respondent has a criminal history, but does not have any previous offences of a sexual nature. His first conviction in March 1988, when he was 17 years old, was for assault occasioning bodily harm on a female. While the details are not clear cut, it appears that the respondent and the victim of the assault had been drinking together. The respondent took the victim, who was in her late 20s to early 30s, home and they continued drinking there. He does not recall what happened next other than that he suddenly "lost it" and remembers waking up and asking what had happened. He was charged and fined $400.

**Personal Circumstances**

[10] The respondent has had an erratic employment history with significant bouts of unemployment. He began drinking alcohol at age 16 and developed a heavy drinking habit. He was also a moderately heavy smoker of marijuana. Prior to his incarceration the respondent recalls having alcohol blackouts, with no memory for one to two days at times. Intoxication was said to be a factor which contributed to the 1997 offences. I note that the respondent also has drug offences recorded against him.

**Medical and psychiatric history**

[11] Custodial records reflect a history of self-harm behaviour. Medical records from 2004 note a diagnosis of Paranoid Delusional Disorder/Paranoid/Antisocial Personality Disorder, for which he was prescribed medication, with which he was noncompliant. A later opinion indicated no clear evidence of current mental illness beyond Antisocial Personality Disorder. His incidents of self-harm have included holding a razor to his throat, cuts to his hands, punching a fire hose, jumping on his finger and hitting his head against the wall. He has been placed under observation numerous times.

**Events in Prison**

[12] The respondent has a history of breaches of discipline while in prison for behaving in an offensive/threatening manner, or refusing to obey a lawful direction, between 1997 and 2009. Additionally, he has been involved in a number of incidents concerning threats against staff, failing drug tests, self harm and minor assaults on fellow prisoners between 1998 and 2008. The respondent was convicted and sentenced on 15 May 2008 to two months imprisonment for threats to do grievous bodily harm to a fellow prisoner on 6 March 1998. In 2002 he was charged with a major assault on a prisoner. This was sparked by a verbal altercation which resulted in the respondent stabbing the other prisoner with a pen. The matter did not proceed as the victim withdrew his complaint, but the respondent threatened a female prison officer who was related to his victim and he received a sentence for this. Since 2003 there have been instances of breaches of discipline by the respondent.

[13] The respondent has completed all recommended programs to address his offending as follows:

- Ending Offending – completed 30 June 1998
- Anger Management Program – completed 30 October 1998
- Preparation for Intervention Program – completed 25 May 1999
- Violence Intervention Program – completed 9 July 1999
- Cognitive Skills Program – completed 3 May 2000
- Substance Abuse Education Program – completed 1 December 2000
- Substance Abuse; Preventing and Managing Relapse Program – completed 18 August 2000
- Indigenous Sex Offender Program – completed 7 January 2004

[14] A Remission Assessment, conducted in August 2005, noted that there remained a consistent theme throughout the program reports of denial and minimisation of the offences.

**Psychological and psychiatric reports**

*Indigenous Sex Offender Program*

[15] The exit report completed in respect of the Indigenous Sex Offender Program ("ISOP") states that the respondent's insight into his offending expanded significantly during the therapy sessions, with an acknowledgment of his personal involvement in the non-consensual sexual activities. The report indicated that the respondent "gained insight into his predilection for alcohol and marijuana which disinhibited his normal controls." The report indicates that the respondent completed a realistic and achievable Relapse Prevention Plan to which he stated he was fully committed. The key points included abstinence from sexual and general offending, and the use of illicit drugs and alcohol, avoiding association with negative peer groups, seeking assistance from good role models, and engaging in stable employment and recreational activities. The facilitators concluded that if the respondent maintained his current level of commitment to change and his resolve to live by his Relapse Prevention Plan, he would present as a low to moderate risk to the community.

*Sexual Offending Program Assessment*

[16] The respondent achieved a score of 6 on the STATIC-99, an instrument designed to assist in the prediction of sexual and violent recidivism for sexual offenders. That places him in the high risk category. The assessment noted the respondent's participation in the Indigenous Sexual Offending Program. It was recommended that he participate in the "Staying on Track: Sexual Offending Maintenance Program" in either a custodial or community based setting. He has not participated in this program despite it being offered to him.

*Report of Dr Moyle*

[17] Dr Moyle, a psychiatrist, prepared a report on instructions from Crown Law for the purposes of a risk assessment for a potential application under the Act. He interviewed the respondent on 29 July 2008 and reviewed extracts from the prison and DPP files.

[18] Dr Moyle diagnosed the respondent as having a Cluster B personality disorder. His assessment of the respondent, utilising a range of psychometric and risk assessment tools, was as follows. On the PCL-R , the respondent received a score of 25, which is below the cut-off score of 30 for psychopathy. On the STATIC-99, the respondent received a score of five, and is thus between three and four times out of 10 likely to re-offend with sexual violence over a five to 15 year period. On the Violence Risk Appraisal Guide, a score of eight was achieved, which placed him in band six. This means that between seven and 10 years he will have a 44-58% risk of re-offending. On the Sexual Offender Risk Appraisal Guide, the respondent was rated on band five, at the top of the scale, with a score of 13. This equates to a 45-59% chance of sexually re-offending within seven to 10 years. On the HCR-20, the respondent's risk to the public is rated at least moderately high, while he continues to show scant regard for social norms that do not directly advantage him. On the Sexual Violence Risk 20, the respondent ranked as a moderately high risk.

[19] Dr Moyle concluded that, if the respondent was not closely supervised and seen to make the necessary changes to his attitudes and lifestyle on release, he remained at a moderately high risk of repeating behaviour involving violence in company, especially directed at a vulnerable woman, at any time after his release and he needed a sexual outlet. This risk would be lowered if the respondent abstained from social venues serving alcohol and saw the value of an alcohol free lifestyle, and if he learnt to moderate his anger and resentment with an experienced Aboriginal counsellor.

*Report of Professor Nurcombe*

[20] This report was prepared as a consequence of a court order made 8 May 2009. Professor Nurcombe interviewed the respondent on 1 June 2009. He made the following diagnosis:

(i) alcohol and substance abuse disorder – now in remission due to incarceration;
(ii) possible paranoid reaction in the past – now in remission;
(iii) antisocial personality disorder with psychopathic traits being shallow affect, lack of empathy, parasitic lifestyle, poor behavioural control, promiscuity, lack of realistic long term goals, impulsivity and failure to accept responsibility.

[21] Professor Nurcombe also applied a number of actuarial instruments in an endeavour to statistically quantify the risk that the respondent presents upon release. On the Hare Psychopathy Checklist revised, the respondent's score was between 21 to 24 out of 40, indicating a moderately high level of psychopathic traits, but below the cut off point for psychopathic personality. On the STATIC-99 the respondent scored 5, indicating a "moderate to high level of risk of re offending". On the Stable-2000, a score of 6/12 was achieved, indicating a moderate level of risk of re-offending. On the Violence Risk Appraisal Guide, the respondent scored +8, placing him in category 6. This was described by Professor Nurcombe as a moderate to high level risk of violent re-offending. On the Sex Offenders Risk Appraisal Guide he scored 17, placing him in category 6 meaning that he was in the group of persons whose likelihood of sexual re-offending in 7 and 10 years was .58 and .76 respectively. This was considered to be a "high level of risk of sexual re-offending". On the Vermont Assessment of Sexual Offender Risk, the respondent scored 29 in respect of the re-offence risk scale, and 50 on the violence scale, which when combined placed him in the group of prisoners who were likely to have a high risk of sexual recidivism.

[22] Professor Nurcombe noted that the history of sexual violence was neither chronic, diverse, nor associated with escalation. However, severe physical and psychological coercion were involved in the offending the subject of his present incarceration. Professor Nurcombe considered that the respondent tended to minimise his involvement in the offence by saying his memory is deficient and by rationalising the offending behaviour as due to intoxication. However, Professor Nurcombe could detect no attitudes condoning sexual violence. He considered the evidence indicated that the respondent had problems with intimate relationships. He could find no evidence of sexual deviance, in particular sexual sadism, and noted the respondent had psychopathic traits but not to the extent required for the formal diagnosis of psychopathic personality disorder.

[23] Professor Nurcombe considered that the respondent presents a moderate to high level of risk of sexual violent re-offending and concluded:

> "His risk of reoffending could be significantly reduced if he is abstinent from alcohol or drug use for a period of time, if he is employed, and if he is able to establish a satisfactory intimate relationship with a female. He will require regular supervision. His current Relapse Prevention Plan is deficient. He needs an Aboriginal counsellor prior to and following release from prison, with regard to revising his Relapse Prevention Plan, finding employment, and establishing a more satisfactory social life. All this will go by the board if he begins to drink and use marihuana again, and reverts to the Rugby League lifestyle of mateship, partying and hypermasculine rough-and-tumble sex.
>
> I do not believe that he has a sexual deviation in regard to a preference for sadistic rape. He seems to have been drawn into the index offence by the atmosphere of drunken group sex, in company with older antisocial associates. If he is to offend in the future, the likelihood is that, in a setting of intoxication and group excitement, he will rape an adult female. The likelihood of psychological and physical harm to the victim would be severe. However, there is little chance that the sexual violence would escalate to a life-threatening

> level. I do not regard the risk as imminent. Warning signs that might signal that the risk is increasing or imminent are reversion to alcohol or drug use, consorting with antisocial men in the setting of drinking, and unemployment. The risk of sexual violence is chronic but drops to only moderate in nature if he is to develop and adhere to a Relapse Prevention Plan.
>
> The best way of monitoring the warning signs that the risk posed by the perpetrator is increasing would be regular supervision by a correctional officer, regular counselling by an indigenous counsellor, the avoidance of alcohol, drugs, and antisocial companions, the further development and adherence to a relapse plan, consistent employment, and family support. Mr Saunders states that he intends to attend meetings of Alcoholics Anonymous. He should be supported in doing so. I doubt whether it would be helpful for him to enter the Sex Offender Maintenance Program.
>
> In psychological counselling, Mr Saunders' deficiency in the capacity for intimacy could be attended to. Attention to his defects in empathy are not likely to be effective. Given that there is no evidence of paedophilia or of sexual stalking, I see no relevance to the imposition of distance from children or the imposition of a curfew or electronic monitoring"

*Report of Dr James*

[24] Dr James also provided a report as a consequence of a court order made on 8 May 2009. He interviewed the respondent on 19 June 2009. Dr James detected no major psychiatric anomalies such as delusions or obsessions, nor idiosyncratic ideology. He also noted a past history of a major depressive disorder, in early 2004, lasting several months. He diagnosed substance abuse (alcohol and cannabis) which was in remission due to his incarceration. Dr James diagnosed an antisocial personality disorder. He also considered that there may have been traits associated with the so called borderline personality but these traits have not been developed to the point of a diagnosable personality disorder.

[25] Dr James also administered actuarial instruments to assess the risk of recidivism. The respondent's score of 14 on the Psychopathy Check List was "considerably below" the cut off point of 30 for the diagnosis of a psychopathic personality to be made. On the STATIC-99, the score of 5 indicated a moderate to high risk of recidivism. On the Sex Offenders Risk Appraisal Guide, the respondent scored 22, placing him in a group of persons 58% of whom will re-offend within 7 years and 80% of whom will re-offend within 10 years. On the Violence Risk Appraisal Guide, he scored 13. Dr James combined the results of these instruments with dynamic factors. He noted that 5 of the respondent's 6 brothers appear to have led "productive and law abiding lives". According to Dr James, after being imprisoned the other brother is now "…back on track". Dr James noted that the respondent's family, even after the death of his father, continue to have functioned as a "coherent and supportive unit".

[26] Dr James did not diagnose sexual sadism. He considered that the respondent seemed to be "genuinely committed to the need for abstinence from intoxicants". Dr James concluded:

> "It is my overall opinion that, if Mr Saunders were to be discharged without any Supervision Order, his risk of re-offending in some way, violently and/or sexually, would be moderate to high; but with an appropriate Supervision Order, supporting and ensuring Mr Saunders' current intention of being rehabilitated other than in Rockhampton; and in also ensuring that he remains abstinent both of alcohol and of cannabis, it is my opinion that his risk of serious offending would be no more than moderate.
>
> If his early rehabilitative responses are positive and successful, it is likely that his risk will quite rapidly diminish; and he is likely to draw support from an environment of other persons with pro-social attitudes rather than his erstwhile mates who clearly had more deviant inclinations.
>
> I consider it important to ensure that Mr Saunders has some mental health oversight at least for the first year of his discharge; and it is my opinion that there would be some value in a Psychiatrist being importantly included, given Mr Saunders' history of what I consider to have been a Major Depressive Disorder; it is likely that recurrence of such a disorder would need medicinal intervention at an early stage.
>
> It is my view that the duration of the Supervision Order might reasonably be five years; Mr Saunders will then be forty-four years old; and if he has successfully transited from his prison environment to the outside community, that is to say he has avoided significant breaches of his Supervision Order, it is likely that he will be able to maintain his then good standing from his own resources."

**Conclusion**

[27] In my view, the evidence indicates that the respondent is a serious danger to the community in the absence of an order made pursuant to Division 3 of the Act. On the basis of the expert psychiatric assessments, the risk that the respondent presents upon his release is moderate to high. Based on the material, I consider that there is sufficient cogent evidence to satisfy me to the high degree of probability necessary, that if released without a Division 3 Order under the Act, the respondent presents an unacceptable risk of committing a serious sexual offence.

[28] As mentioned, the expert evidence is that the risk as assessed is moderate to high. But, the united psychiatric expert opinion is that the risk can be adequately managed by the respondent's release subject to conditions. Substantial limits are required in order for any supervision order to be effective in respect of the respondent's access to alcohol, illicit drugs, in particular marijuana, and his associates. These are provided for in the proposed supervision order. The respondent's counsel stated in submissions that the respondent has at all times indicated his willingness to comply with the conditions of the proposed supervision order.

[29] While some of the respondent's conduct in prison is of concern in that it has demonstrated a disregard for directions imposed upon him, nevertheless, the examining psychiatrists, being aware of that conduct, have opined that a supervision order could adequately manage the risk presented by the respondent. All experts considered the conditions of the draft supervision order appropriate to manage the risk and reduce it to an acceptable level. A number of affidavits were tendered at the hearing of the application, which were provided to the psychiatrists. It is apparent from these that the respondent has support from a number of quarters, including his family, and in respect of counselling and work experience and training. Counsel for the applicant indicated that the expert psychiatrists considered these supports in the community were favourable to the reduction of risk pursuant to the supervision order.

[30] While no supervision order can ever ensure completely that there is no relevant risk, in the circumstances of the present case, and based on the uncontested expert opinion, the risk can be reduced to acceptable limits by a supervision order in terms of the draft. All of the experts considered that the appropriate duration of the order ought to be 5 years, that is, until 8 October 2014. The supervision order will have effect from the end of the respondent's period of imprisonment: see s 15 of the Act.

**Order**

[31] There will be a supervision order in terms of the draft, as initialled by me, which will be placed with the papers.