SUPREME COURT OF QUEENSLAND

CITATION:	*Attorney-General for the State of Queensland v Shapland* [2010] QSC 74
PARTIES:	**ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND** **(applicant)** **v** **CLAUDE EDWARD SHAPLAND** **(respondent)**
FILE NO:	BS3237 of 2007
DIVISION:	Trial Division
PROCEEDING:	Application for review
DELIVERED ON:	18 March 2010 (ex tempore reasons)
DELIVERED AT:	Brisbane
HEARING DATE:	18 March 2010
JUDGE:	Mullins J
ORDER:	**1. The Court is satisfied to the requisite standard that the respondent, Claude Edward Shapland, is a serious danger to the community in the absence of an order pursuant to Division 3 of the *Dangerous Prisoners (Sexual Offenders) Act* 2003.** **2. The order of Justice Douglas made on 7 April 2009 be rescinded.** **3. The respondent be released from custody from the Wolston Correctional Centre by no later than 4pm 18 March 2010 and be subject to a supervision order with the requirements set out in the draft order initialled by Mullins J and placed on the file, until 18 March 2015.**
CATCHWORDS:	CRIMINAL LAW – JURISDICTION, PRACTICE AND PROCEDURE – JUDGMENT AND PUNISHMENT – OTHER MATTERS – where respondent has served a term of imprisonment for sexual offences involving children – where respondent currently under a continuing detention order – application for review of continuing detention order by Attorney-General under s 27 *Dangerous Prisoners (Sexual Offenders) Act* 2003 (Qld) – whether the respondent is a serious danger to the community in the absence of a division 3 order – whether a supervision order rather than a continuing detention order can ensure adequate protection of the community – where supervision order made for a period of 5

years

COUNSEL: M Maloney for the applicant
C Reid for the respondent

SOLICITORS: Crown Law for the applicant
Patrick Murphy for the respondent

HER HONOUR: This is the second annual review under the Dangerous Prisoners (Sexual Offenders) Act 2003 (the Act) in relation to the respondent.

For the purpose of giving my reasons for making a supervision order today I will not set out full details of the respondent's history. That is because those matters are set out in other Judgments of this Court. A continuing detention order was made in respect of the respondent on 5 November 2007. The reasons for that decision are [2007] QSC 344. The respondent was unsuccessful in his appeal against that decision. The appeal is [2008] QCA 153.

The first annual review under the Act of the continuing detention of the respondent was heard by his Honour, Justice Douglas, on 7 April 2009. The continuing detention order was affirmed at that stage. I should note that the reason that a detention order was applied for in the first place was because of the concern of the respondent's high risk of re-offending at the conclusion of the sentence of four years' imprisonment that he served after being sentenced for three counts of indecent treatment of a child under 12 years.

The victims were girls aged seven and 10 years who had not been known to the respondent when he visited their parents' home in relation to the possible purchase of a motorcycle. The offending was opportunistic. At that time the respondent was on parole for sexual offending that he had committed during 1994 and 1995 against an 11 year old girl in New South

Wales. In September 1995 he had been sentenced in New South Wales to eight years' imprisonment and was released on parole in 2002.

The continuing detention order was made in 2007 because there was an absence of a well considered plan for release by the respondent. He had not participated genuinely in a program to facilitate his re-integration into the community at that stage and the psychiatric evidence all pointed towards a high risk of re-offending.

Before his first annual review he had completed the Getting Started Preparatory Program in relation to sexual offending. That is a relatively short program that took place between 25 June and 6 August 2008. The assessment of the psychiatrists at the time the matter was before his Honour, Justice Douglas, was that the respondent remained a high risk of re-offending.

The psychiatric reports supported the further involvement of the respondent in an intensive sexual offenders' treatment program. Shortly after the first annual review the respondent undertook the program that is entitled Crossroads High Intensity Sexual Offending Program that is referred to as HISOP.

The respondent participated in that program between 20 April 2009 and 23 February 2010. He participated in a total of 113 sessions. There is an extensive completion report relating to the respondent's participation in HISOP. The respondent has

produced a document entitled, "New Future Plan." Since his commencement of the HISOP and his completion he has been reviewed on a couple of occasions by the psychiatrists, Professor James and Dr Beech, who had reviewed him previously and were familiar with the factors in the respondent's history that indicated his high risk of re-offending.

Both Dr Beech and Professor James now support the respondent's release under a supervision order. Ms Maloney, counsel for the Attorney-General, has prepared an extensive outline of submissions that summarises the recent psychiatric evidence and sets out the acknowledgement by the Attorney-General that the psychiatric evidence filed for the second annual review supports the release from custody of the respondent subject to a supervision order.

The respondent is 72 years old. When he commenced HISOP he did not, initially, embrace the program. There was a bit of a rocky start. As he expressed in the Court today full credit should be given to the co-ordinators of the program. The respondent, ultimately, showed a positive response to HISOP.

The fact that that was a gradual result and his participation and involvement was increasing during HISOP indicates some optimism for the respondent's genuine embracement of the assistance and insights that HISOP can give to a person of the respondent's history who has had a dysfunctional upbringing, a long criminal history and at various times entrenched views against participation in rehabilitation oriented programs.

Dr Beech's most recent report, given on 4 March 2010 after he had an opportunity to review the completion report for the respondent from HISOP, notes the respondent's positive response to HISOP and expresses the opinion that it is likely that the respondent has developed some personal insight from the program, despite his earlier reluctance and intransigence.

Dr Beech recommends that the respondent continue participation in a sexual offender maintenance program available to him in the community with appropriate additional personal professional support and that this would need to be reinforced by appropriate supervision and monitoring.

Professor James is also positive about the appropriateness of a supervision order. Professor James referred to the respondent's finally taking responsibility for his past offending behaviour and that appropriately structured supervision should offer the protection the community expects on the release of a sexual offender from prison after allowing the opportunity for the positive aspects of the Act to be implemented.

The psychiatrists consider that without a supervision order the risks of the respondent re-offending sexually would have to be considered to be, at least, moderately high.

The completion report from HISOP, undertaken by the respondent since the last review, together with the updated reports from

psychiatrists, Dr Beech and Professor James, are acceptable cogent evidence which satisfy me to the high degree of probability required under the Act that the decision that the respondent is a serious danger to the community in the absence of a division 3 order should be affirmed. The same material, however, also satisfies me that, although the respondent has made significant progress in addressing the risk factors for re-offending sexually since the last review, he remains a high risk of re-offending without a supervision order.

The applicant proposed a draft supervision order to the respondent's lawyers. The terms of that have been considered by the respondent's lawyers and they do not offer any objection to those terms. I have also considered the terms which since this Act has commenced have evolved and developed to meet the perceived needs of a respondent such as this respondent and the resources that the Department of Corrective Services can make available for the purpose of providing appropriate supervision.

There are 40 conditions proposed in the supervision order. Although that is a large number, they are building on a regime of supervision that is practical from both the point of view of a respondent and the Department of Corrective Services in achieving the protection for the community and the gradual increasing responsibility of the respondent for his own behaviour.

Professor James suggested a period of five years would be appropriate for the supervision order for the respondent. Having regard to the respondent's age, that appears to be appropriate. The orders that I make are set out in the draft that I am proposing to initial and place with the file. As these reasons are made publicly available, I am going to recite the first three orders. They are:

> 1) The Court is satisfied to the requisite standard that the respondent, Claude Edward Shapland, is a serious danger to the community in the absence of an order pursuant to division 3 of the Dangerous Prisoners (Sexual Offenders) Act 2003.
>
> 2) The order of Justice Douglas made on 7 April 2009 be rescinded.
>
> 3) The respondent be released from custody from the Wolston Correctional Centre by no later than 4 p.m. 18 March 2010 and be subject to a supervision order with the requirements that are set out in the draft order, initially by me and placed with the file, until 18 March 2015.
