# SUPREME COURT OF QUEENSLAND

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| CITATION: | *Attorney-General (Qld) v Reader* [2010] QSC 142 |
| PARTIES: | **ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND**<br>(applicant)<br>**v**<br>**READER, Eric Albert**<br>(respondent) |
| FILE NO/S: | SC No 13251 of 2009 |
| DIVISION: | Trial Division |
| PROCEEDING: | Application |
| ORIGINATING COURT: | Supreme Court of Queensland |
| DELIVERED ON: | 25 March 2010 |
| DELIVERED AT: | Brisbane |
| HEARING DATE: | 25 March 2010 |
| JUDGE: | Margaret Wilson J |
| ORDER: | **That the respondent be released from custody subject to the conditions of a supervision order.** |
| CATCHWORDS: | CRIMINAL LAW – SENTENCE – SENTENCING ORDERS – ORDERS AND DECLARATIONS RELATING TO SERIOUS OR VIOLENT OFFENDERS OR DANGEROUS SEXUAL OFFENDERS – DANGEROUS SEXUAL OFFENDER – where application brought by the Attorney-General pursuant to Division 3 of the *Dangerous Prisoners (Sexual Offenders) Act* 2003 (Qld) – where application is for an order for indefinite detention for care, control or treatment or alternatively for release from custody subject to the conditions of a supervision order – where evidence supports imposition of a supervision order rather than continuing detention, and counsel for the Attorney-General conceded that a supervision order would be appropriate – where the making of such an order was not contested by counsel for the respondent, although there was debate about some conditions of the draft order – where evidence supports the conclusion that respondent is a serious danger to the community – whether protection of the community requires a regime of supervision and risk management<br><br>*Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld), |

s 13(2)(b)

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| COUNSEL: | B Mumford for the applicant.<br>D Shepherd for the respondent. |
| SOLICITORS: | The Crown Solicitor for the applicant.<br>Legal Aid Queensland for the respondent. |

HER HONOUR: This is an application by the Attorney-General that Eric Albert Reader be subjected to an order under Division 3 of the Dangerous Prisoners (Sexual Offenders) Act 2003.

The application is for an order for indefinite detention for care, control or treatment or alternatively for release from custody subject to the conditions of a supervision order. The evidence supports the imposition of a supervision order rather than continuing detention, and counsel for the Attorney-General conceded that a supervision order would be appropriate. The making of such an order was not contested by counsel for the respondent, although there was debate about some of the conditions of the draft order which is an exhibit in these proceedings.

An order under Division 3 may be made only if the Court is satisfied that the respondent is a serious danger to the community in the absence of such an order. A prisoner is a serious danger to the community in that sense if there is an unacceptable risk he would commit a serious sexual offence if released from custody without a supervision order being made. See section 13(2)(b).

The Court may decide it is satisfied of the existence of the relevant danger only if persuaded by acceptable cogent evidence and to a high degree of probability that the evidence is of such weight to justify the decision. Here the evidence supports such a conclusion.

The respondent is now aged 52. He is due for release from

prison on 22 May 2010.

Two psychiatrists have prepared reports under section 11 of the Act, Dr Scott Harden and Dr Donald Grant. The Court also has the benefit of a report prepared by Dr Joan Lawrence, a psychiatrist, on 17 April 2009.

In Dr Harden's opinion there is a moderate to high risk of sexual reoffending if the respondent is released without a high level of compulsory supervision and treatment. In Dr Grant's opinion the risk is moderate and could be managed through supervision in the community. Dr Lawrence considered the risk to be moderate to high. In her view indefinite detention is not necessary, but there needs to be close supervision on discharge and some external limitations placed on the respondent's behaviour.

As the respondent does not contest a finding that he is a serious danger to the community in the absence of an order under Division 3, I shall not canvass the reports in detail. Each contains a thorough and helpful review of the respondent's antecedents, the reporters' clinical observations, and the results of tests administered.

I find that the respondent would be a moderate to high risk of sexual reoffending in the absence of close supervision. In order to protect the community, a strict regime of supervision and risk management is required. An order should be in place for 10 years from his release from custody.

The respondent has been convicted of three sets of sexual offences.

In May 1984 he was convicted of two charges of rape committed on 25 January 1983. For each offence he was sentenced to eight years' imprisonment, the sentences to be served concurrently. The victim was a girl aged just over 15. The offences against her were committed in her own home. She was the daughter of a woman with whom the respondent was in a relationship. There has been ongoing dispute about the circumstances of the offence: whether the sexual conduct was consensual and whether it was in the girl's mother's presence. Be that as it may, the respondent accepts that what he did was legally and morally wrong.

The next offending behaviour occurred in June 1996. The respondent was convicted of indecent assault on 8 July 1995 and sentenced to 18 months' imprisonment to be suspended after six months with an operational period of three years. The victim was a woman who came to his house by appointment to demonstrate cookware. He was apparently not expecting her and annoyed by her presence. He grabbed her on the breast and tried to touch her crotch, saying "Let's see how far you'll go to make a sale."

The index offences were committed between 1 January 1997 and 21 May 1999. The respondent pleaded guilty to the offences on 12 April 2000 and was given a head sentence of 11 years' imprisonment. The offences consisted of one count of maintaining an unlawful sexual relationship with a child with

a circumstance of aggravation, three counts of indecent treatment of a child with a circumstance of aggravation, two counts of rape, three counts of carnal knowledge of a girl under 12, and two counts of indecent treatment of a child under 12 with a circumstance of aggravation. Of course, these offences were committed in breach of the suspended sentence to which I have earlier referred. They involved digital and penile penetration, penetration of the girl's vagina with a vibrator, masturbation in her presence, having her perform oral sex on him, and his touching her vagina.

There is no real pattern to the respondent's offending behaviour. The first offences were committed against a 15-year old girl whom he knew only slightly. The second involved opportunism and an element of humiliation. As to the index offences, the girl came to his knowledge during a prison visit. He heard that she was sexually active and decided he wanted to participate in sexual activity with her. On his release from prison he ingratiated himself with her mother and groomed the child.

As I have said, a draft supervision order is an exhibit in these proceedings. There were a number of paragraphs of that order which were the subject of submissions. I shall turn to them in a moment.

It is sufficient for me to observe that it is in the public interest that Queensland Corrective Services know with whom the respondent is associating. It is in the public interest that the respondent not have undisclosed and/or unsupervised

access to female children.

It is in the interests of the respondent's rehabilitation that he assume some responsibility for his own reintegration into the community. Successful reintegration into the community is an important factor in managing the risk of sexual reoffending.

If the respondent has difficulty in meeting requirements placed on him, he may become frustrated. This may lead to heightened stress levels, which may lead to a heightened risk of reoffending. That is a factor to be weighed in the balance when considering conditions such as number (ix) to which I will turn in a moment. It is a matter for Queensland Corrective Services to be aware of and monitor in the practical application of the conditions of the order.

Turning to the draft order. I will deal with the changes to the draft sequentially. Some of them were not contested.

(ii) Upon the respondent's release from custody, he should report to an Authorised Corrective Services Officer at Wacol; otherwise the paragraph should be as per the draft.

The respondent's employment. Under section 16(1)(c) of the Act the supervision order must contain a requirement that the respondent notify a Corrective Services officer of every change of his employment at least two business days before the change happens. Paragraphs (vi) and (vii) of the draft order

deal with requirements for notifying Corrective Services of employment and seeking permission and approval prior to entering into employment or engaging in volunteer work or paid or unpaid employment. Lest there be any argument about the requirements of section 16(1)(c), paragraph (vii) should be amended to require notification of the commencement of employment as well as notification of any change of employment.

Because of the desirability of Corrective Services knowing with whom the respondent is associating, there ought to be inserted another paragraph, (vii)(A), in the following terms:

"(vii)(A) notify an authorised Corrective Services Officer as soon as practicable of any change in the place at which his employer requires him to carry out his employment".

These requirements should be read in conjunction with paragraph (xv), which requires the respondent to comply with every reasonable direction of an authorised Corrective Services Officer.

I have referred to the importance of the respondent taking some responsibility for his own reintegration into the community. Paragraph (ix) provides that if he is in accommodation of a temporary or contingent nature he must make reasonable efforts to secure alternative long term accommodation. Dr Harden was cross-examined about this requirement. He clearly saw it as important in the context of the respondent's taking some responsibility for his own

rehabilitation. Counsel for the respondent drew attention to the risk of rising stress levels and hence increased risk of re-offending if he became frustrated in his efforts to obtain permanent accommodation. As I have said, that is a matter for Corrective Services to be aware of and to monitor.

The next change to the order is in paragraph (xii). It should read

"notify a Corrective Services officer of, seek permission and obtain the approval of an authorised Corrective Services Officer at least two business days prior to any change of residence."

Paragraph (xxii) of the draft order was not pressed.

Paragraph (xxix) should be amended so that the second sentence reads as follows:

"The respondent is required to fully disclose the terms of the order and nature of offences to the guardians and caregivers of the children before any such contact can take place and to permit Queensland Corrective Services to disclose information pertaining to the offender to guardians or caregivers and external agencies (i.e Department of Communities, (Child Safety Services)), in the interests of ensuring the safety of the children."

Paragraph (xxx) was not pressed.

Paragraph (xxxiii) requires amendment by the addition in the first line after the word "establishment" of "or public park".

Paragraph (xxxiv) was not pressed.

Paragraph (xli) requires amendment by the insertion at the beginning of the words "upon request".

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HER HONOUR: I am satisfied that the adequate protection of the community can be achieved by the imposition of the conditions proposed.

I will make an order in terms of the amended draft.

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HER HONOUR: Order as per amended draft.

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