

SUPREME COURT OF QUEENSLAND

CITATION: *Riddler v Queensland State Parole Board* [2010] QSC 165

PARTIES: **ROBERT LESLIE RIDDLER**
(applicant)
v
QUEENSLAND STATE PAROLE BOARD
(respondent)

FILE NO: BS 11874 of 2009

DIVISION: Trial Division

PROCEEDING: Hearing

ORIGINATING COURT: Supreme Court of Queensland

DELIVERED ON: 21 May 2010

DELIVERED AT: Brisbane

HEARING DATE: 17 March 2003

JUDGE: Daubney J

ORDER: **1. The application is refused.**
2. There is no order as to costs.

CATCHWORDS: ADMINISTRATIVE LAW – JUDICIAL REVIEW – GROUNDS OF REVIEW – APPLYING POLICY AND MERITS OF THE CASE – where the applicant was sentenced to 12 years imprisonment for a number of sexual offences and he was declared to be a violent sexual offender – where the applicant made an application for statutory order of review of a decision of the respondent to refuse the applicant’s application for parole – where the applicant argued that the respondent had acted in accordance with a policy to refuse parole because he failed to complete a substance abuse course – whether the respondent made its decision based on a policy without regard to the merits of the case

ADMINISTRATIVE LAW – JUDICIAL REVIEW – GROUNDS OF REVIEW – IRRELEVANT CONSIDERATIONS – where the applicant argues that the respondent placed excessive and undue weight upon the issue of inaccurate information concerning the applicant’s history of breaches and incidents – whether the respondent took irrelevant considerations into account

ADMINISTRATIVE LAW – JUDICIAL REVIEW – GROUNDS OF REVIEW – RELEVANT CONSIDERATIONS – where the applicant argued that the

respondent did not give sufficient weight to the material supporting his application for parole namely the fact that the applicant had completed a substance abuse course in 1999 – whether the respondent failed to take relevant considerations into account

Corrective Services Act 2006 (Qld), s3, s227

Morales v South Queensland Regional Parole Board,
3 August 2007, White J, Supreme Court of Queensland, cited

COUNSEL: The applicant was self represented
KA Mellifont for the respondent

SOLICITORS: The applicant was self represented
Crown Law for the respondent

- [1] The applicant, Robert Leslie Riddler, has applied for a statutory order of review of the respondent Parole Board’s decision of 3 July 2009 by which it refused his application for parole.

Background

- [2] On 22 March 1999, the applicant was sentenced to a total of 12 years imprisonment and he was declared to be a serious violent offender. A pre-sentence custody declaration of 237 days was made. He was convicted, on his own pleas of guilty, on two counts of rape, four counts of attempted rape, two counts of deprivation of liberty, five counts of indecent assault with circumstances of aggravation and two counts of entering a dwelling with intent. The learned sentencing judge commenced his sentencing remarks by saying:

“You have a bad criminal history. These brutal attacks on two defenceless women were premeditated and prolonged and the women, by virtue of their occupations, were extremely vulnerable.

The sentence I impose must reflect the brutal nature of your attacks and I must also take into account the fact that Courts, in dealing with such matters, should impose sentences which will act as a deterrent to other like-minded people.”

- [3] On 30 April 2009, the respondent received the applicant’s application for parole, dated 3 March 2009.
- [4] That application was considered at the respondent’s meeting held on 22 May 2009. On 1 June 2009, the respondent wrote to the applicant advising that his application had been considered, acknowledging that the material enclosed with his application contained a number of positive factors supportive of his application, but noting also some factors that worked against a successful application. The letter stated that the respondent had not made a final decision on the application, and that the purpose of the letter of 1 June 2009 was to draw the applicant’s attention to factors that

suggested to the respondent that the applicant would pose an unacceptable risk to the community and to provide him with an opportunity to comment on those matters.

- [5] The letter of 1 June 2009 referred, amongst other things, to a report by Dr James Freeman, clinical psychologist. I will refer to that report in more detail shortly. The letter continued:

“The Board noted that you were terminated from the Getting Started: Preparatory Program, the reason given by yourself being that you were advised to do so by your lawyer. It is further noted that you are currently waitlisted for the “Getting Smart” program; also referred to as the Medium Intensity Substance Abuse Program, as in Dr Freeman’s report. The Board encourages you to actively participate in and gain knowledge and skills from these programs as it will assist significantly in your rehabilitation. The Board may then have confidence that when you come across any of your risk factors or triggers you may act appropriately and so minimise your risk of re offending in the community. This need is further enhanced given your identified risk factors and your outstanding criminogenic needs. The fact that your offences are directly linked to drug use, as evidenced by your own admission where upon you state that you can not remember the offences for which you have been convicted as a result of consuming large quantities of morphine and pethidine medication, due to a back injury and the fact that you consistently deny having any memory of the events, only serve to heighten this need.”

- [6] The letter then noted the Board’s concern about the fact that the applicant’s conduct during his period of imprisonment had “fluctuated”, saying that the respondent “was concerned that [the applicant] appeared to struggle to maintain acceptable conduct in a highly structured environment”. The letter then listed some 14 instances of breaches of prison discipline or being involved in negative incidents. Some of these involved drugs.
- [7] The letter concluded by inviting the applicant to make any further submission as to why his application for parole should be granted.
- [8] After receiving that letter, the applicant raised concerns with the sentence management advisor at the Wolston Correctional Centre in relation to the accuracy of the record of breaches and incidents which had been recorded in the respondent’s letter of 1 June 2009. On 11 June 2009, the sentence management advisor provided a report to the respondent stating that she had investigated these concerns and concluding that, whilst the information set out in the Parole Board’s letter accorded with information contained on the management system, there were a number of incidents which required further detail:

“5. In relation to the incident recorded on 05/11/2008 it is noted that the offender has at no time been accommodated in 6D as reported in this incident. It is also acknowledged that the store room in the education area is accessible by numerous offenders throughout the day. Therefore it cannot be determined that this offender was actively involved in the recorded incident.

6. In relation to the incident recorded on 11 April 2008 and subsequent breach on 18 March 2008 I provide the further information (breach comments) resulting from further investigation into the matter:

“The decision was made not to impose a penalty due to the claim made by the prisoner that the wrong medication was being given by Nursing Staff to prisoners in Residential. This claim was investigated and substantiated by other staff members.”

7. In relation to the breach recorded on 27 August 2007 the determination of ‘not guilty’ is correct, however, the punishment of ‘reprimanded’ is incorrect. I have been made aware that there is no ability in IOMS to select a not guilty determination without selecting a punishment. Should the writer of the Parole Board Assessment Report have been aware of this information, this breach may not have been included in the report.
8. Point 7 is also relevant to the breach recorded on 10 March 2005 which in turn related to the incident recorded on 25 February 2005. Further investigation found the following entry in relation to the breach.

“Ut results typical of panandine assessment by Q health (sic)”

9. In relation to the incident recorded on 20 April 2006 whereby the offender was reported to have provided a positive urine test, I confirm that this incident was referred for further investigation. Incident details indicate that the offender may have been provided with valium at the PAH and hence was not breached.
10. In relation to the incident and subsequent breach dated 22 June 2001, I confirm that this offender was listed as the victim of the altercation with another offender.
11. Further perusal of the Parole Board assessment report has highlighted an anomaly in respect to the period of time the offender has been accommodated in residential. Offender Riddler has been accommodated in residential since 16 January 2001 and has recorded one return to secure for a period of approximately 2½ months between 12 July 2004 and 28 September 2004.

[9] The applicant also provided a further submission to the respondent, which was received on 23 June 2009. That submission highlighted the factual inaccuracies in respect of the recorded history of breaches and incidents. He also drew the respondent’s attention to a number of programs that he had completed that had not been referred to in the letter of 1 June 2009. In respect of abstention from drug use, the applicant submitted that he now had the foresight that illicit drug use had been his downfall for the greater part of his life, and now that he was aged 55 he had a greater understanding of his future prospects and his great need to remain offence and drug free. He listed a number of reasons why he wished to do so. The applicant also reiterated his contention that he had no memory of the offences for which he had been convicted, saying:

“I wish to advise the parole board that since the first day of my arrest in regard to these sexual offences, when questioned in relation to these events,

I had no recollection of this particular crime due to the fact that I was high on prescription medication and a cocktail of illicit drugs. Even to this day I cannot recall the events that lead up to and the committing of these crimes.

Even though I have no memory of this offence, I continue to empathise with the victims and try to understand what they have endured and continue to suffer. I can fully understand the hurt and pain that has been inflicted upon them and their ongoing frustrations and possibly anger. My only wish is that I could make amends, however without any memory of this crime, I myself remain at a loss at what I can possibly do.

The memory loss that I continue to endure is in no way any excuse for such a crime, not knowing what actually occurred continues to play on my mind – I can only imagine exactly what the victims have been through.”

- [10] The respondent Board met again on 3 July 2009, and decided to refuse the applicant’s application for parole. It wrote to the applicant on 9 July 2009, advising:

“At its meeting on 03 July 2009, the Board fully considered your submission. The Board noted that you have provided a number of vocational certificates and further noted that many of your positive urinalysis samples were due to medication. Attached is a copy of a memorandum, provided to the Board by Wolston Correctional Centre outlining the reasons for a number of positive test results. With the exception of this, the Board is of the opinion that the issues outlined in the Boards previous letter still exists.

For the reasons set out in this letter and its previous letter to you the Board decided that you would be an unacceptable risk to the community on a parole order at this time and your application has been declined.”

- [11] The applicant requested a statement of reasons from the respondent. That statement of reasons, dated 14 September 2009, was provided to the applicant. The statement of reasons set out at length the material which had been considered by the respondent, and reiterated the facts that had underpinned its deliberations. In relation to the catalogue of incidents and breaches, the statement of reasons set out the full list which had been initially reported to it via the Parole Board Assessment Report, but in respect of each of the incidents which had been the subject of clarification by the sentence management advisor, and disputed by the applicant, the respondent expressly noted the terms of the corrections or clarifications in respect of each such incident, and stated in respect of each one that “this incident was disregarded by the Board”.

- [12] In argument before me, the applicant accepted that it was clear on the face of the respondent’s statement of reasons that the respondent did not take these matters into account when making its decision, but there were nevertheless numerous incidents of breaches of prison discipline or negative incidents in which the applicant had been involved. The statement of reasons concluded:

“The decision was based on the following reasons:

1. Taking into account the above factors the Board formed the view that:

- It shared the views of Dr James Freeman in that you present with outstanding treatment needs in the area of substance abuse and that it is imperative you complete these programs in the interest of both your successful rehabilitation and the safety of the greater community.
- At this time you have not gained sufficient knowledge and skills to assist significantly in your rehabilitation and so minimise your risk of re offending in the community.
- The Board does not have confidence that when you come across your risk factors or triggers you will act appropriately.
- You could lodge a new application at any time from 03 January 2010. However the Board was aware that the collation of material for a new application can take approximately two months and recommended that you indicate to your Centre that you intend to lodge an application any time from 03 November 2009.

After taking into account all of the relevant factors of your case, both positive and negative, the Board formed the view that at that time you posed an unacceptable risk to the community and decided to decline your application for a parole order.”

[13] The report of Dr Freeman to which the Board referred was a report dated 3 October 2008 which had been received in respect of an application for parole which the applicant had made in March 2008. Dr Freeman interviewed the applicant, and noted in his report:

“5.2 During the interview, the prisoner again denied having any memory of the events and also struggled to identify any clear recollections of the circumstances surrounding the offences. Rather, Mr. Riddler accepted that he was well acquainted with the two victims (who he alleges were prostitutes), and he had regularly purchased cannabis for one of the victims. However, the applicant reinforced that he was heavily abusing prescription medication in combination with amphetamine and cannabis use (at the time of the offences) in an attempt to manage the pain associated with a serious back injury sustained at work. Mr. Riddler acknowledged that his behaviour was becoming increasingly erratic as his friends had also complained that he attempted to run them over in his vehicle during this same time period. Furthermore, he accepted that he “*freaked out*” after sustaining the work injury as his income was drastically reduced which contributed to his unstable mental health. Nevertheless, he reinforced that he genuinely has no recollection of the offences (“*I have sat here for 10 years and still can’t remember them*”) despite recognising the benefits of remembering the offences e.g., “*remembering would help my progression and I wouldn’t have lost my marriage over it*”.

5.3 However upon reflection, Mr. Riddler remains unconvinced that he engaged in the rapes, as he does not believe he is capable of inflicting such violence against women. Additionally, he reinforced that both women received considerable financial compensation payments but continued to work in the sex industry. Furthermore, he stated that he only pled guilty after receiving instructions from

his barrister that a guilty plea would reduce his term of imprisonment. Nonetheless, Mr. Ridder also noted that “*If I did do it, I got what I deserved*”. Taken together, the prisoner continues to consistently state he has no recollection of the events and remains somewhat sceptical that he engaged in the offences. Similarly, while reporting that he could express remorse and regret for the offending behaviours (if the events occurred), he generally failed to show a significant amount of victim empathy.”

- [14] Dr Freeman made the following observations concerning the applicant’s substance abuse:

“In regards to his drug and alcohol history, Mr. Riddler reported that he first began drinking large quantities of alcohol in his early adolescence. In fact, he reported that he was an “*acute alcoholic*” from the age of 14 to 18 years of age which resulted in him developing stomach ulcers. As a result, he ceased consuming alcohol but rather turned to heavy drug abuse. Briefly, Mr. Riddler acknowledged that he had used a range of substances (both illicit and licit) throughout his life including, heroin, amphetamines, cannabis, cocaine, mushrooms, LSD as well as prescription medication. The applicant stated that he was addicted to heroin from the age of 12, and remained a heavy user until his early 30’s. Mr. Riddler acknowledged that he had been a “*junky for most of my life*”, however he reported developing the capacity to abstain from drug usage during a prior incarceration period in the 1990’s after his daughter drowned in a motel pool. The prisoner stated that this event had a tremendous impact upon his life as he recognised that the circumstances would have been different if he had not been incarcerated for drug-related offences. Despite this, it is also noteworthy that Mr. Riddler eventually committed further drug-related offences upon his release (current offences) and he has consistently demonstrated an extreme vulnerability to drug addiction. For example, the applicant noted that he recently developed a further addition to pain-relief medication after being hospitalised for his ongoing back problems, and he is now reluctant to consume any form of pain reduction medication. Taken together, Mr. Riddler’s drug misuse is well documented in the Professional Management File and has resulted in him completing substance misuse programs while incarcerated.”

- [15] The report by Dr Freeman also refers to the breaches and incidents, a significant number of which were, as I have already noted, disregarded by the Board when making its decision. In any event, Dr Freeman said that “... while the applicant has generally demonstrated acceptable custodial behaviour, case notes have been recorded that indicate the prisoner is manipulative, and on occasions failed to obey instructions from staff”. He concluded in this regard, however, that “nevertheless, it has generally been noted that Mr Riddler’s behaviour has become more acceptable over time”.

- [16] Dr Freeman applied a number of psychological and psychometric assessment tools, and concluded that there were no critical signs that the applicant was suffering from any form of explicit psychosis or formal thought disorder. Dr Freeman did, however, observe:

“Furthermore, and as highlighted above, there appeared to be no cognitive deficits and the applicant reported having the capacity to manage his own

mood. However, it is noteworthy that he reported a very long history of drug use e.g., heroin from the age of 12. The prisoner has also displayed a propensity to consume such illicit substances on a daily basis, and this consumption has historically been linked with the commission of a number of offences. As a result, it is likely that Mr. Riddler experienced a Substance-related Disorder (e.g., with physiological dependence) for a number of years, and there is the clear potential for him to return to such a Disorder if he began consuming drugs again in the future. It is noteworthy that the applicant's heavy use of intravenous drugs (e.g., amphetamines and heroin) has had a significantly negative impact upon his cognitive, behavioural, social and occupational functioning for an extended period of time. Additionally, given the prisoner's drug use in jail and admission that he can easily become addicted to either illicit or licit substances (e.g., pain-killers), it appears that Mr. Riddler is at a heightened risk of returning to substance abuse when he is eventually released into the community."

[17] Dr Freeman stated further:

"In regards to his presenting personality features, the prisoner did not appear to harbour explicitly aggressive or anti-social tendencies, however it is noted that the prisoner has been willing to engage in reckless and pro-offending behaviours when released into the community. Additionally, his illicit drug use whilst incarcerated is further evidence of his impulsive nature as well as the strength of his drug problem. Despite this, he has generally shown appropriate custodial behaviour and is currently employed in a position that requires a high level of trustworthiness e.g., centre floor cleaner. On a lesser note, the prisoner reports historically being reluctant to form close attachments, and such a tendency is likely the result of his mistreatment and abandonment as a child e.g., *"I have a fear of being hurt"*. Nevertheless, the applicant did not appear to be an individual who feels emotionally immobilised, but rather he expressed a range of emotions within the assessment interview. Taken together, while Mr. Riddler clearly requires on-going assistance to avoid substance usage when he is eventually released into the community, the assessment did not reveal any clear though disturbances."

[18] Dr Freeman concluded that the respondent presented a moderate risk of presenting further sex offences following his release, saying that this categorization related to the applicant's previous alcohol problems, his non-violent criminal history, and his violent criminal history.

[19] Dr Freeman's conclusions included:

"15.7 Overall, psychometric measures indicate that Mr. Riddler displays few signs of psychopathy, which has been shown to be associated with sexual recidivism (Langton et al., 2008). Additionally, he currently does not sufficiently meet the criteria to be considered to have any form of Clinical or Personality Disorder. However, it is noteworthy that the prisoner has an extensive drug use history (that commenced at 12 years of age) and his subsequent physiological dependence upon a range of illicit and licit substances appear to be directly related (and mostly likely causal) to his offending history. **As a result, it is likely that Mr. Riddler has experienced an ongoing Substance-related Disorder (e.g., with physiological dependence) for a number of years, and there remains the clear**

potential for him to return to such a Disorder if he began consuming drugs of any kind again in the future. It is noteworthy that the prisoner considers himself “*a junkie*” and his admission that he can easily become addicted to either illicit or licit substances (e.g., even pain-killers while in prison), is clear evidence of his risk of lapsing into drug dependence.

- 15.8 In contrast, a comparative analysis of the prisoner’s level of sexual deviance also revealed few marked elevations. However it is noted that Mr. Riddler has an extensive history of prostitute usage and also appears to use such services to manage his mood, in particular, stress levels that result from interpersonal difficulties e.g., relationship problems. However, such tendencies are likely to have diminished with the maturation process as well as his reportedly deteriorating health, which includes prostrate problems. Overall, the assessment did not reveal any clear thought disturbances.
- 15.9 **When considering the Board’s request to examine the applicant’s risk of re-offending,** Mr. Riddler’s primary risk factors relate to his: outstanding substance abuse treatment needs, extensive offending history, reluctance to take full responsibility for his offending behaviour, limited victim empathy, simplistic relapse prevention plan, custodial breach history, small support network and general willingness to return to pro-offending behaviours once returned into the community. Mr. Riddler’s mediating factors include an absence of explicit psychopathology tendencies or general mental health concerns, good recent institutional conduct, strong work ethic and post prison employment opportunities. However, of the above issues, the prisoner’s ability to avoid returning to substance use in the community remains his greatest risk factor, as many of his former offences have been committed in order to obtain substances or under the influence of such substances. Similarly, after interpretation of the current psychological risk assessment tools (e.g., SONAR & SORAG), and after consideration of his offending history, it appears that Mr. Riddler’s risk of re-offending is currently within the moderate category. Although, given his offending history and in line with previous research (Handon & Bussiere, 1998), he appears most likely to be at risk of engaging in general offending behaviours rather than further sex offences. In fact, research indicates that offenders released at an older age are less likely to recommit sexual offences and that sexual recidivism generally decreases as a linear function with age (Barbaree, Blanchard & Langton, 2003). However, such risk is likely to dramatically increase if he returns to substance use.”

The application for a statutory order of review

- [20] The applicant submitted that the respondent “had not given due and proper consideration” to his application and “had not given due merit to the submissions made in support of his application”. He contended that the respondent “had exercised its discretionary power according to a rule or policy, without full and proper consideration of the merits of the application before it”. His submissions in this regard were:

- (a) That the respondent's view that the applicant has outstanding treatment needs in the area of substance abuse failed to take account of the fact that the applicant had "successfully completed a substance abuse course in 1999 at Arthur Gorrie Correctional Centre", and the respondent had thereby not given merit to the fact that the applicant had in fact addressed substance abuse;
- (b) The respondent had placed too much emphasis on the inaccurate information concerning the applicant's history of breaches and incidents;
- (c) The decision was unreasonable, and was based on an improper exercise of power in accordance with the rule or policy which resulted in a decision that failed to take into account the applicant's particular circumstances.

[21] The statutory purpose underlying the discretion to grant or refuse parole is stated in s 3(1) of the *Corrective Services Act 2006*:

"The purpose of corrective services is community safety and crime prevention through the humane containment, supervision and rehabilitation of offenders."

[22] When exercising its discretion to achieve that purpose, the task for the respondent involved "the assessment of risk involved in granting to a prisoner the privilege of completing part of his sentence in the community".¹ Section 227(2) of the *Corrective Services Act 2006* allows for the making of guidelines regarding the policy to be followed by the respondent in performing its functions. The Queensland Parole Board Guidelines to a Regional Parole Board dated April 2008 are in evidence before me. Section 1.1 of those guidelines state that:

"When considering whether a prisoner should be granted a ... parole order, the highest priority for a regional parole board ("the Board") should always be the safety of the community."

[23] Section 2 of the guidelines is headed "Suitability" and states as follows:

- 2.1 If a prisoner has been convicted of a sexual offence listed in schedule one of the *Corrective Services Act 2006*, the Board **should exercise extreme caution** when determining a prisoner's suitability to be granted parole.
- 2.2 If the Attorney-General has made an application for an order against a prisoner under the *Dangerous Prisoners (Sexual Offenders) Act 2003*, the Board should closely scrutinise the prisoner's suitability to be granted parole. The Board should obtain psychiatric reports commissioned as part of the *Dangerous Prisoners (Sexual Offenders) Act 2003* process before determining the application.
- 2.3 Before making a decision to grant a prisoner a parole order, the Board should **always consider the level of risk that the prisoner may pose to the community**.

¹ *Morales v South Queensland Regional Parole Board*, 3 August 2007, White J, Supreme Court of Queensland

- 2.4 When deciding the level of risk that a prisoner may pose to the community, the Board should have regard to all relevant factors, including but not limited to the following –
- (a) the recommendation for parole or the parole eligibility date fixed by the sentencing court;
 - (b) the sentencing court's recommendations or comments;
 - (c) the prisoner's co-operation with the authorities both in securing the conviction of others and preservation of good order within the corrections system;
 - (d) the prisoner's prior criminal history and any patterns of offending;
 - (e) the possibility of the prisoner committing further offences;
 - (f) any submission made to the Board by an eligible person;
 - (g) the prisoner's compliance with any other previous grant of community based release or resettlement leave program;
 - (h) if a parole order has been cancelled for reasons that relate to the safety and security of the community, the Board should be satisfied that the safety factors have been resolved;
 - (i) if a parole order has been cancelled because of a prisoner's unsatisfactory behaviour, the Board should not grant a further parole order to such a prisoner unless it is satisfied that the prisoner has sufficiently addressed their unsatisfactory behaviour that caused the cancellation of the parole order;
 - (j) whether there are any other circumstances that may increase the risk the prisoner presents to the community;
 - (k) any medical, psychological, behavioural or risk assessment report relating to the prisoner; and
 - (l) **recommended rehabilitation programs or interventions and the prisoner's progress in addressing the recommendations.**" (emphasis added)

[24] The offences of which the applicant was convicted are listed in Schedule 1 of the *Corrective Services Act 2006*, and these guidelines were therefore applicable.

[25] In argument before me, the principal focus of the applicant's argument became an examination of whether the respondent had acted on the basis of incorrect information concerning the applicant's history of breaches and incidents. As I have already noted, the applicant accepted in argument before me that it was clear, on the face of the respondent's decision, not only that it had been informed of the corrections and clarifications to the information which had previously been provided to it, but that it expressly disregarded those matters which had been so challenged. The applicant also properly conceded before me that the remaining incidents recorded on his record were matters in which he had been involved or for which he had been disciplined in the course of his term of imprisonment. There is nothing in the material or on the face of the reasons to suggest that the respondent placed undue or inappropriate weight on the undisputed matters of disciplinary breaches committed by the applicant, and this ground of his application cannot now be sustained.

- [26] In respect of the applicant's argument concerning the respondent's concerns about his outstanding treatment needs in the area of substance abuse, there is no evidence that the Board made its decision by applying a rule or policy on such a matter without a proper consideration of the merits. I have quoted above the statement by the Board by which it expressly articulated its concern that the applicant had not gained sufficient knowledge and skills to assist significantly in his rehabilitation and thereby minimise his risk of re-offence in the community. In reaching that conclusion, the Board referred to and relied, as it was clearly entitled to do, on the report of Dr Freeman. Nor is this a case in which it can be said that the respondent applied some policy of refusing parole in the absence of the applicant completing a particular program. Rather, the respondent identified the concerns that it held in respect of the various risks that it considered the applicant posed to the community at the time of its decision. One of those stated concerns was the risk factor presented by the applicant's history of drug use. The Board clearly had a basis for that being one of several matters on which it relied in reaching its decision. The applicant's contention that the respondent had failed to take into account the completion by him of a substance abuse program in 1999 is, in fact, not borne out by the material. On the contrary, the statement of reasons expressly records the material which was taken into account by the respondent in reaching its decision. That included the substance abuse education program certificate from January 1999. The Parole Board Assessment Report which was considered by the respondent also referred to the applicant's completion of that course.
- [27] Beyond these matters, the complaints made by the applicant seem to me, with respect, to do no more than argue with the merits of the respondent's decision and do not provide a basis for the making of an order for statutory review.
- [28] It follows that I conclude that the applicant has not demonstrated any reviewable error in the respondent's decision to refuse parole, and the application for a statutory order of review should be refused. There will be no order as to costs.