SUPREME COURT OF QUEENSLAND

CITATION:	*Attorney-General for the State of Queensland v Speechley* [2010] QSC 400
PARTIES:	**ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND** (applicant) **v** **TYRONE SPEECHLEY** (respondent)
FILE NO/S:	BS 14118 of 2009
DIVISION:	Trial Division
PROCEEDING:	Applications
ORIGINATING COURT:	Supreme Court at Brisbane
DELIVERED ON:	4 October 2010
DELIVERED AT:	Brisbane
HEARING DATE:	4 October 2010
JUDGE:	Applegarth J
ORDER:	**That pursuant to the *Dangerous Prisoners (Sexual Offenders) Act* 2003 the respondent be released subject to the terms of the supervision order imposed by Ann Lyons J.**
CATCHWORDS:	CRIMINAL LAW – SENTENCE – SENTENCING ORDERS – ORDERS AND DECLARATIONS RELATING TO SERIOUS OR VIOLENT OFFENDERS OR DANGEROUS SEXUAL OFFENDERS – DANGEROUS SEXUAL OFFENDER – GENERALLY- where respondent subject to a supervision order – where respondent contravened the order – whether, on the balance of probabilities, respondent satisfied the Court that adequate protection of the community can be ensured despite the contravention by a supervision order *Dangerous Prisoner (Sexual Offender) Act* 2003 (Qld), s 22
COUNSEL:	A Scott for the applicant C Heaton for the respondent
SOLICITORS:	Crown Law for the applicant Legal Aid Queensland for the respondent

HIS HONOUR: The applicant Attorney-General alleges that the respondent contravened a supervision order that was made by A Lyons J on 9 April 2010. There is no dispute concerning the fact of the alleged contravention. The issue for me today is whether I am satisfied that the existing supervision order should continue.

The respondent has the onus of satisfying me on the balance of probabilities that adequate protection of the community can be ensured, despite the contravention by a supervision order. I am well satisfied of that fact based upon the evidence, including the reports of Professor James and Dr Harden that are Exhibits 1 and 2 respectively, as well as their oral evidence, which indicated that a supervision order on the existing terms was in order.

I can briefly address the facts of the matter and why I am satisfied that a supervision order should be made.

The respondent complied with the supervision order until, it appears, he encountered some particularly troubling circumstances that led to him leaving his residence on 20 June 2010 without the approval of the authorised Corrective Services officer. He, though, to his credit, on the afternoon of 21 June 2010 telephoned Ms Walker and explained that he was coming into the Probation and Parole Office as he knew he was in trouble and wanted to explain why he had left the residence without approval. He told Ms Walker that two of his brothers were appearing in the District Court at Mount Isa and their

legal representatives had advised that they would be sentenced to imprisonment. Another brother had committed suicide whilst he was in prison. He said that he left the approved residence the night before and went to the cemetery to talk to his father who had passed away. He remained in the cemetery the entire night and he said that he removed the electronic monitoring device and threw it in the grass. Although there is not corroboration of his account, there is no reason to doubt it.

The reports of the two psychiatrists have assessed the respondent's risk and took into account both the possibility that the account was correct and the possibility that it was incorrect.

I am prepared to proceed on the basis that the account given by the respondent is correct and it involved a transient aberration on what was otherwise satisfactory compliance with the terms of his supervision order.

Without essaying the written and oral opinions of the experts, I shall summarise them. Professor James was of the opinion that Mr Speechley's actions in severing his bracelet and breaking his curfew should be understood in terms of the sadness and worries that beset him. Professor James, who is familiar with the experiences of members of the indigenous community in North Queensland, is conscious of the problems that beset young Aboriginal men in similar predicaments and

that the circumstances in which the respondent found himself might well have led to self-destructive behaviour.

There was, in effect, a crisis in the respondent's life at the time and, foolishly, he took it upon himself to breach his curfew. However, Professor James did not consider that the breaking of the curfew indicated anything sinister in terms of recidivism and I accept that opinion.

Dr Harden provided a similarly careful report in relation to the history of the respondent and made recommendations concerning his future. These include recommendations that he be supported in engagement in employment and education and that he maintain treatment that addresses problems of impulsiveness, poor problem solving and co-operation with supervision.

A report of Ms Embrey, filed by leave, contemplates that upon release upon a supervision order the respondent would go to the Townsville precinct and be supervised there. She canvasses that during that period he would, perhaps, have contact with a large number of support services in the Townsville area to assist him in learning strategies for managing his emotions more effectively and the like.

The intent of being there was said by Mr Embrey to have more intensive supervision in that transitional period to assist the respondent to gain further strategies for managing

negative emotions before returning to Mt Isa where he recently breached his curfew.

However, Professor James, when asked about this proposal in his evidence, thought that the quicker that the respondent went back to Mt Isa and supervision there, the better. Before his contravention, which resulted in him being placed in custody and held in custody pursuant to an order made by the Chief Justice on 1 July 2010, the respondent had established a helpful professional relationship with Ms Kennedy in the community and, as I've indicated, was abiding by his orders.

He has relationships in the community and I can only agree with Professor James that any period that he remain at Townsville be to a minimum. The reasons why it was thought that he should undergo intensive supervision at the Townsville precinct were unexplained, and I am sure if Ms Embrey had heard Professor James's oral evidence she would, like me, accept the common sense of his view that it is best that the respondent be returned to his support network at Mt Isa.

I say that with the advantage of having heard Ms Embrey in another case this morning and noting that, notwithstanding the support that is offered by the Department to persons who reside at the DPSOA Housing at the Townsville Correctional Centre, it is remote from Townsville, there is no public transport to Townsville and it is something of a bleak environment.

I am not going to prescribe where the respondent resides in the next weeks but those with responsibility for the supervision of Mr Speechley should take into account the expert opinion of Professor James concerning what is best for the respondent, and therefore, what is best for the community in terms of his return to supervision in the community.

I am satisfied that there was the contravention alleged. That is not in dispute. I am satisfied, on the balance of probabilities, that the respondent can return to the community under a supervision order on the same terms as that made by Justice Lyons.

Accordingly, the respondent has discharged the onus upon him under section 22(7) of the Act.

...
