

SUPREME COURT OF QUEENSLAND

CITATION: *A-G v Saunders* [2011] QSC 228

PARTIES: **ATTORNEY-GENERAL OF THE STATE OF QUEENSLAND**
(applicant)
v
STANLEY JAMES SAUNDERS
(respondent)

FILE NO: BS 4359 of 2009

DIVISION: Trial

PROCEEDING: Civil

DELIVERED ON: 20 July 2011

DELIVERED AT: Brisbane

HEARING DATE: 20 July 2011

JUDGE: Fryberg J

ORDERS: The prisoner is released from custody subject to the continuation of the supervision order made by Philippides J on 24 August 2009, as amended.

CATCHWORDS: Criminal Law – Sentence – Sentencing orders – Orders and declarations relating to serious or violent offenders or dangerous sexual offenders – Dangerous sexual offender – Registration, reporting and like matters – breach of supervision order
Dangerous Prisoners (Sexual Offenders) Act 2003 s 20

COUNSEL: K Philipson for the applicant
J W Fenton for the respondent

SOLICITORS: Crown Law for the applicant
Fisher Dore for the respondent

HIS HONOUR: The respondent is before me pursuant to proceedings commenced under section 20 of the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

In late 2010 he breached a supervision order to which he was then subject by absenting himself without permission from a place and by taking cannabis in breach of a drug condition. The breaches are admitted.

Since then he has been examined by two psychiatrists and has been placed under an involuntary treatment order as a result of a diagnosis of paranoid schizophrenia. The medical evidence is to the effect that his contravening behaviour is directly and entirely attributable to that condition, and Dr McVie expresses regret that he was not admitted to a mental health institution before his breaching behaviour. She wrote in her report:

"Mr Saunders currently needs effective management of his psychotic illness. I would hope that his involuntary treatment order remains in place. He has no insight into his illness and is unlikely to remain in treatment without it. It is unfortunate that the Mental Health Services were reluctant to admit this man in October. A proper admission to an acute unit then may well have averted his need to return to custody."

I can only echo my concurrence with that view. It is greatly to be regretted that the proper authority for the treatment of a mentally unwell person should have avoided its responsibilities and left the respondent to the care of the Corrective Services Department. I would hope that there will not be further examples in this man's future

of an unwillingness to have him treated by the relevant authority. That he should be so treated and that his involuntary treatment order should be maintained is affirmed by both of the psychiatrists who have reported to the Court.

There is no direct evidence before the Court that the order is still in force, but it can be inferred from evidence which is before the Court that it probably continues, and I was assured from both ends of the Bar table that this is indeed the fact. I therefore proceed on the basis that the order does continue and will continue for whatever time is necessary into the future.

It is not only a matter, however, of the order continuing. It is also, in my judgment, of critical importance that Mr Saunders, the respondent, should take the medication which has been prescribed for him. At present, the order does not seem to require that he do so as a condition of his freedom. In my judgment, it should be amended to make it clear that his freedom in the community does depend upon his following the medication regime prescribed for him.

Another aspect of the matter is that by requirement 2(xxix) of the present order in requirement 29 he is required to attend psychiatrists, psychologists, social workers, counsellors, and others as directed by a Corrective Services Officer. It seems to me that while

there is nothing wrong with such directions being given (it is clear enough that the power of Corrective Services officers to give such directions is enshrined in the Act), the requirement in the order should not be limited to his attendance as directed by an officer. It should be a requirement of his freedom that he attend at a frequency recommended by a specialist, and I propose to amend requirement 29 accordingly.

Finally, there is a need for two other types of amendment. The first is to add two clauses to reflect amendments to the Act since the order was made - they are not opposed. The second is to include a clause which gives effect to the important matter raised by Dr McVie, that is, that priority be given to linking him into a meaningful job preparation program as soon as possible.

In my judgment, there should be a requirement placed on Department of Corrective Services to provide such a job preparation program.

To give effect to this last need, there should be two further paragraphs put into the order: namely, a new paragraph 3(i) to read as follows:

"3. The Department of Corrective Services must:

(i) forthwith facilitate and finance the respondent's attendance at a meaningful job preparation program as described in page 10 of Exhibit N McVie-2 to the affidavit of Ian McVie filed by leave on 20 July 2011."

There should also be a new paragraph 7 in the draft order to read:

"Insert a new paragraph 2(xxxv) to read as follows:
'(xxxv) diligently attend and participate in the program referred to in paragraph 3(i) of this order.'"

I am satisfied that the prisoner should not be released without the continuation of the supervision order. The Attorney-General has abandoned so much of the application as sought the return of the respondent to custody, and I certainly see no need for any such order to be made.

I will, therefore, order that he be released from custody subject to the continuation of the supervision order made by Philipides J on 24 August 2009, as amended.

I will hand down the draft so counsel may see the amendments which have been made. Are there any submissions on the form of the order?

MS PHILIPSON: No, your Honour.

MR FENTON: No.

HIS HONOUR: There will be an order in accordance with the draft as amended, initialled by me, and placed with the papers.