SUPREME COURT OF QUEENSLAND

CITATION:	*A-G v Hynds No. 1* [2012] QSC 55
PARTIES:	**ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND** (applicant) **v** **GREGORY ALAN HYNDS** (respondent)
FILE NO:	BS 7584 of 2007
DIVISION:	Trial
PROCEEDING:	Application
DELIVERED ON:	13 February 2012
DELIVERED AT:	Brisbane
HEARING DATE:	13 February 2012
JUDGE:	Fryberg J
ORDERS:	**Kelvin Anderson be included as a respondent in this application.**
CATCHWORDS:	Criminal Law – Sentence – Sentencing orders – Orders and declarations relating to serious or violent offenders or dangerous sexual offenders – Dangerous sexual offender – Generally – Joinder *Dangerous Prisoners (Sexual Offenders) Act 2003* *Uniform Civil Procedure Rules 1999* r 62, r 69(1)(b)
COUNSEL:	A D Scott for the applicant S Ryan for the respondent
SOLICITORS:	Crown Law for the applicant Legal Aid for the respondent

HIS HONOUR: In the course of the hearing of an application by the Attorney-General for an order that the respondent continue to be the subject of a continuing detention order, or alternatively that he be released from custody subject to a supervision order, the respondent has

applied for an order that Kelvin Anderson, the Chief Executive of the Department of Community Safety, be added as a party. The respondent relies on rule 62 and rule 69(1)(b) of the *Uniform Civil Procedure Rules*.

In support of the application, Ms Ryan has submitted that Mr Anderson is a proper party to the proceedings and ought to be made a party to the proceedings so as to be bound by any order which may be made. Her focus in making that submission was on the possibility of the alternative order sought by the applicant being made, that is a supervision order. Although evidence has not yet been heard, Ms Ryan has informed the Court that the respondent accepts that the evidence is to the effect that he is a serious danger to the community in the absence of a Division 3 order. He does not wish to be heard on that issue.

It is, therefore, highly likely that the Court will make either a continuing detention order or a supervision order. If the latter order is made, it will, at least by implication, require that Corrective Services officers do things. Mr Anderson is the person with the authority to require such officers to act and is interested in any order having such an effect. It is a fundamental rule of natural justice that before a Court makes an order requiring a person to do anything, or affecting a person's interests, that person be given the opportunity to appear and make representations.

Counsel for the Attorney did not oppose the making of the order insofar as it was sought to have Mr Anderson bound by orders made on the Attorney's application. He was disposed to address arguments to the Court in relation to any further orders that might be made imposing requirements on Mr Anderson, but since there is at present nothing before the Court to indicate whether such an order might or might not be made, it is premature to consider that question.

Although the *Dangerous Prisoners (Sexual Offenders) Act* uses the passive voice in describing a supervision order, (that is, an order that the prisoner be released from custody subject to the requirements a court considers appropriate that are stated in the order) rather than the active voice imposing a duty on a specific person, most requirements typically imposed affect both the prisoner and corrective services officers, involving reciprocal duties and obligations.

Counsel for the Attorney General submitted that the act did not impose or authorise the imposition of duties on corrective services officers. He implied that the source of any duties lay elsewhere. For present purposes it is unnecessary to analyse the precise source; it is of no consequence if it involves another act. Other acts have not been referred to and it is unnecessary to go into them. At this stage, if an order for a supervision order as sought by the Attorney General were made, it would affect Mr Anderson’s interests. If, as Ms Ryan hints,

there is to be a further application for orders explicitly requiring things to be done by corrective services officers, he has an even greater interest in being here.

In my judgment, the application ought to be allowed, and it should be ordered that Kelvin Anderson be included as a respondent in this application.