

SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

ATKINSON J

No 12379 of 2008

ATTORNEY-GENERAL FOR THE STATE OF
QUEENSLAND

Applicant

and

ALLAN CHARLES WILSON

Respondent

BRISBANE

..DATE 19/03/2012

ORDER

HER HONOUR: This is the final hearing of an application under section 27(2) of the *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld) (the Act).

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Section 27 provides for the annual review of any person who is subject to continued detention under the Act. That annual review is designed to ensure that there are no more restrictions on the liberty of a person who is not serving a term of imprisonment than is required to promote the objects of the Act.

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On a review hearing, such as this, the relevant section is section 30. It provides as follows:

(1) The section applies if, on the hearing of a review under section 27 or 28 and having regard to the required matters, the court affirms a decision that the prisoner is a serious danger to the community in the absence of a division 3 order.

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(2) On the hearing of the review, the court may affirm the decision only if it is -
(a) by acceptable, cogent evidence; and
(b) to a high degree of probability;
that the evidence is of sufficient weight to affirm the decision.

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(3) If the Court affirms the decision, the court may order that the prisoner -

- (a) continue to be subject to the continuing detention order; or
- (b) be released from custody subject to a supervision order.
- (4) In deciding whether to make an order under subsection (3) (a) or (b) -
- (a) the paramount consideration is the need to ensure adequate protection of the community; and
- (b) the court must consider whether -
- (i) adequate protection of the community can be reasonably and practicably managed by a supervision order; and
- (ii) requirements under section 16 can be reasonably and practicably managed by corrective service officers.
- (5) If the court does not make an order under subsection (3) (a), the Court must rescind the continuing detention order.
- (6) In this section 'required matters' means all of the following -
- (a) the matters mentioned in section 13(4);
- (b) any report produced under section 28A.

In this case the applicant, the Attorney-General for the State of Queensland, submits that in the light of the evidence now before the Court adequate protection of the community can be

reasonably and practicably managed by a supervision order. 1
The evidence before this Court strongly supports the
applicant's submission. In such a case, it is appropriate to
rescind the continuing detention order and in its place order
that Mr Wilson be released from custody subject to a
supervision order. 10

The evidence before me, particularly from the psychiatrists,
is acceptable and cogent evidence that the original decision
that he was a serious danger to the community in the absence
of a division 3 order should be affirmed. The first decision 20
was made on 6 March 2009 for the respondent's detention in
custody for an indefinite term for control, care and
treatment.

A continuing detention order was made by Justice Douglas on 30
15 April 2010 and by Justice Dalton on 6 April 2011. However,
as can be seen from the very careful psychiatric reports,
Mr Wilson's attitudes have since undergone significant change.

Notwithstanding the change in his attitudes I am satisfied, 40
for the reasons set out by the Judges who have already dealt
with this matter, that Mr Wilson would be a serious danger to
the community in the absence of a division 3 order, and I also
accept that, in deciding whether to make Mr Wilson subject to
a continuing detention order or to release him from custody 50
subject to a supervision order, the paramount consideration is
the need to ensure adequate protection of the community.

I am particularly influenced by the report of Dr Sundin, who has formed the view, on a careful review of his case, that the risk that he presents can be adequately managed by a supervision order. Where that is the case, a person should not be subject to continuing detention. The common law's preference for the liberty of a person who is not subject to a term of imprisonment means that where the risk to the community can be adequately, reasonably and practicably managed by a supervision order, the court should prefer such an order.¹

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No release of a prisoner can ever be risk-free, but I agree with Dr Sundin that Mr Wilson can be safely managed within the community with the support and oversight of a supervision order. This will require constant vigilance on Mr Wilson's part. He has a number of positive things now in his favour, in particular the support of a religious community and his determination to free himself from alcohol.

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The long period of time he has been in prison will, of course, make reintegration into the community difficult for him, but that is not a reason to further exacerbate that problem by keeping him in custody when the risk can be adequately managed outside custody.

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The community will be best protected by Mr Wilson's rehabilitation and reintegration into normal life. As

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¹ *Attorney-General (Qld) v Francis* [2007] 1 Qd R 396 at [39]; *Yeo v Attorney-General for the State of Queensland* [2011] QCA 170 at [54].

Mr Rolls submitted in his very thorough submissions on behalf of the Attorney-General, the evidence of the psychiatrists would support a finding that the respondent's condition has improved so that now it would appear that adequate protection of the community can be ensured by the respondent's release on supervision. Such an order should contain restrictions adverted to by the psychiatric evidence. In those circumstances there is no evidence to displace the preference for a supervision order.

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I have been through the draft order with some care. The reason for that is that it is important that there be no more conditions than necessary to adequately manage the risk, in light of the fact that if there are a large number of conditions a person subject to them may breach a condition which does not actually increase his risk to the community. As a result, I have deleted and/or amended some of the terms of the draft order. I will attach the amended order to these reasons and I have handwritten them on the draft which was handed up.

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Those representing Mr Wilson have been through the conditions with him in great detail so that he understands them, so I shall only mention those that I have changed so I am certain that Mr Wilson understands what they are.

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The first is that there is a requirement under condition 6 that Mr Wilson comply with any reasonable direction under section 16B of the Act. In order to make that more specific

these will be the terms of condition 6: "Comply with any reasonable direction of a corrective services officer under section 16B of the Act relating to his accommodation, rehabilitation, care and treatment and drug and alcohol use that is not directly inconsistent with a requirement of the order."

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Paragraph 9 deals with a requirement for Mr Wilson to seek permission and obtain approval from an authorised corrective services officer prior to entering into an employment agreement or engaging in volunteer work or paid or unpaid employment. That condition will have added at the end, "which might involve contact with children". I have added those words because that is the particular risk.

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Paragraph 17 deals with any vehicle owned or driven by Mr Wilson. In view of the fact that he does not have, and seems most unlikely to obtain, a driver's licence because of his medical conditions, I have changed that so it will be "notify the authorised corrective services officer if he obtains a driver's licence".

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In paragraph 18, I have deleted the requirement to submit a schedule of his activities to an authorised corrective services officer. It will now be "discuss with an authorised corrective services officer his planned and proposed activities on a weekly basis or as otherwise directed".

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Paragraph 21 follows on a requirement to submit to alcohol and drug-testing. It deals with the potential that he might be taking other medication at the time which would show up in the drug-testing and alcohol-testing. So I have made condition 21 in these terms: "disclose to an authorised Corrective Services Officer at the time of such testing all prescription and over the counter medication that he is then taking".

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Paragraph 23 deals with not visiting licensed premises. In view of the ubiquity of licensed premises in places of leisure in our community, I have restricted that to deal with the particular risk, and that is not visit hotels, bars or nightclubs, licensed to supply or serve alcohol without the prior written permission of an authorised Corrective Services Officer.

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In paragraph 31, which deals with not attending, joining, affiliating with or attending the premises or attending at the activities carried on by any club or organisation in respect of which there are reasonable grounds for believing there is either child membership or child participation, I have accepted that there is a need for prior approval of an authorised Corrective Services Officer but have deleted the requirement for that to be in writing.

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In view of the fact that it is anticipated that Mr Wilson will attend at church activities, one might expect there will be child participation in that but, Mr Wilson, you will have to

be very careful and ensure you have the permission of an
authorised Corrective Services Officer who will, as I am told
by Mr Rolls, ensure that there is an appropriate person with
you while you are there.

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HER HONOUR: Otherwise the conditions will be as in the
proposed order. I attach the order made to these reasons.

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SUPREME COURT OF QUEENSLAND

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REGISTRY: Brisbane
NUMBER: 12379/08

Applicant **ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND**

AND

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Respondent **ALLAN CHARLES WILSON**

SUPERVISION ORDER

Before: Justice Atkinson

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Date: 19 March 2012

Initiating document: Application filed 14 February 2012

THE COURT, being satisfied to that the requisite standard that the Respondent Allan Charles Wilson, is a serious danger to the community in the absence of an order pursuant to Division 3 of the *Dangerous Prisoners (Sexual Offenders) Act* 2003 (the Act), ORDERS THAT:

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1. The decision made on 6 March 2009, that the Respondent is a serious danger to the community in the absence of an order pursuant to Division 3 of the Act, be affirmed;
2. The continuing detention order made on 6 April 2011 be rescinded; and
3. The Respondent be released from custody and subject to the following requirements until 19 March 2022:

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The Respondent must:

1. report to a Corrective Services officer at the Wacol Probation and Parole District office and advise the officer

- of his current name and address within 24 hours of his
release from custody; 1
2. report to, and receive visits from, a Corrective Services
officer;
 3. notify a Corrective Services officer of every change of
name, place or residence or employment at least two (2)
business days before the change happens; 10
 4. be under the supervision of a Corrective Services officer;
 5. comply with a curfew direction or monitoring direction;
 6. comply with any reasonable direction of an authorised
Corrective Services officer under section 16B of the Act
relating to his accommodation, rehabilitation, care and
treatment and drug and alcohol use that is not directly
inconsistent with a requirement of the order; 20
 7. not leave or stay out of Queensland without the permission
of a Corrective Services officer;
 8. not commit an offence of a sexual nature during the period
of the order;
 9. seek permission and obtain approval from an authorised
Corrective Services officer prior to entering into an
employment agreement or engaging in volunteer work or paid
or unpaid employment which might involve contact with
children; 30
 10. notify the authorised Corrective Services officer of
the nature of his employment, or offers of employment, the
hours of work each day, the name of his employer and the
address of the premises where he is or will be employed at
least two (2) days prior to commencement or any change; 40
 11. reside at a place within the State of Queensland as
approved by an authorised Corrective Services officer by way
of a suitability assessment and obtain written approval
prior to any change of residence; 50
 12. if the accommodation is of a temporary or contingency
nature, comply with any regulations or rules in place at

- this accommodation and demonstrate reasonable efforts to secure alternative, viable long term accommodation to be assessed for suitability by Queensland Corrective Services; 1
13. not stay at a place by way of short term accommodation without the permission of an authorised Corrective Services officer;
14. respond truthfully to enquiries by an authorised Corrective Services officer about his activities, whereabouts and movements generally; 10
15. not have any direct or indirect contact with a victim of his sexual offences;
16. disclose to an authorised Corrective Services officer upon request the name of each person with whom he associates and respond truthfully to requests for information for an authorised Corrective Services officer about the nature of the association, address of the associate if known, the activities undertaken and whether the associate has knowledge of his prior offending behaviour; 20
17. notify the authorised Corrective Services officer if he obtains a driver's licence; 30
18. discuss with an authorised Corrective Services officer his planned and proposed activities on a weekly basis or as otherwise directed;
19. if directed by an authorised Corrective Services officer, make complete disclosure of the terms of this supervision order and the nature of his past offences to any person as nominated by authorised Corrective Services officer who may contact such persons to verify that full disclosure has occurred; 40
20. abstain from the consumption of alcohol and illicit drugs for the duration of this order; 50
21. submit to any form of drug and alcohol testing including both random urinalysis and breath testing as directed by an authorised Corrective Services officer and

- disclose to an authorised Corrective Services officer at the
time of such testing all prescription and over the counter
medication that he is then taking; 1
22. not visit hotels, bars or nightclubs licensed to supply
or serve alcohol, without the prior written permission of an
authorised Corrective Services officer; 10
23. attend upon and submit to assessment, treatment and/or
medical testing by a psychiatrist, psychologist, social
worker, counsellor or other mental health professional as
directed by an authorised Corrective Services officer at a
frequency and duration which shall be recommended by the
treating intervention specialist; 20
24. permit any medical, psychiatrist, psychologist, social
worker, counsellor or other mental health practitioner to
disclose details of treatment, intervention and opinions
relating to level of risk of re-offending and compliance
with this order to Queensland Corrective Services if such a
request is made for the purposes of updating or amending the
supervision order and/or ensuring compliance with this
order; 30
25. attend any program, course, psychologist, social worker
or counsellor, in a group or individual capacity, as
directed by an authorised Corrective Services officer in
consultation with the treating medical, psychiatric,
psychological or other mental health practitioners where
appropriate; 40
26. not establish or maintain any supervised or
unsupervised contact including undertaking any care of
children under 16 years of age except with prior written
approval of an authorised Corrective Services officer. 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
Queensland Corrective Services may disclose information 50

- pertaining to the offender to guardians or caregivers and external agencies (i.e. Department of Child Safety); 1
27. advise an authorised Corrective Services officer of any repeated contact with a parent of a child under the age of 16. The Respondent shall if directed by an authorised Corrective Services officer make complete disclosure of the terms of this supervision order and the nature of his past offences to any person as nominated by an authorised Corrective Services officer who may contact such persons to verify that full disclosure has occurred; 10
28. not without reasonable excuse be within 100 metres of schools or child care centres without the prior written approval of an authorised Corrective Services officer; 20
29. not visit or attend on the premises of any establishment where there is a dedicated children's play area or child minding area without the prior approval of an authorised Corrective Services officer;
30. not be on the premises of any shopping centre, without reasonable excuse, between 8am to 9.30am and between 2.30pm and 4.30pm on school days other than for the purpose of: 30
- i. approved employment
 - ii. attending an approved bona fide pre-arranged appointment with a Government agency, medical practitioner or the like without the prior written approval of an authorised Corrective Services officer; 40
31. not join, affiliate with, attend on the premises of or attend at the activities carried on by any club or organisation in respect of which there are reasonable grounds for believing there is either child membership or child participation without the prior approval of an authorised Corrective Services officer; 50

32. notify an authorised Corrective Services officer of any computer or other device connected to the internet that the Respondent regularly uses or has used; 1
33. supply to an authorised Corrective Services officer any password or other access code known to the Respondent to permit access to such computer or other device or content accessible through such computer or other device and allow any device where the internet is accessible to be randomly examined using a data exploitation tool to extract digital information or any other recognised forensic examination process; 10
34. allow any other device including a telephone to be randomly examined. If applicable, account details and/or phone bills are to be provided upon request of an authorised Corrective Services officer; 20
35. advise an authorised Corrective Services officer of the make, model and phone number of any mobile phone owned, possessed or regularly utilised by the Respondent within 24 hours of connection or commencement of use, including reporting any changes to mobile phone details. 30

Signed: 40
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Registrar of the Supreme Court of Queensland

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