

SUPREME COURT OF QUEENSLAND

CITATION: *Attorney-General for the State of Queensland v Jerome*
[2013] QSC 69

PARTIES: **ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND**
(applicant)
v
TROY JEROME
(respondent)

FILE NO: BS11154 of 2012

DIVISION: Trial Division

PROCEEDING: Hearing

ORIGINATING COURT: Supreme Court of Queensland

DELIVERED ON: 22 March 2013

DELIVERED AT: Brisbane

HEARING DATE: 18 March 2013

JUDGE: Daubney J

ORDER: **There will be a supervision order pursuant to s 13 (5)(b) of the Act, in the terms set out in Annexure A to this judgment.**

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 convicted of multiple violent and sexual offences – whether respondent “serious sexual offender” for purposes of *Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld)* – whether respondent to be released from prison subject to a supervision order – conditions appropriate and practicable to reduce the risk to the community – duration of order

Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld), s 5, 13

Attorney-General (Qld) v Francis [\[2006\] QCA 324](#)
Fardon v Attorney-General for Queensland (2004) 210 ALR 50; [2004] HCA 46
Attorney-General (Qld) v Van Dessel [\[2006\] QCA 285](#)

COUNSEL: M Maloney for the applicant
M McCarthy for the respondent

SOLICITORS: Crown Law for the applicant
Legal Aid Queensland for the respondent

- [1] This is an application by the Attorney-General for orders pursuant to s 13 of the *Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld)* (“the Act”). It was submitted that it is appropriate in this case to make a supervision order in respect of the respondent, Troy Jerome.
- [2] Counsel for the respondent also submitted that it is appropriate for a supervision order to be made in this case.

Background

- [3] The respondent did not dispute the background information and criminal antecedents summarized in the applicant’s submissions. Those matters are as follows.
- [4] The respondent was born on 14 April 1967 and is presently 45 years of age. He is currently serving a period of 19 years’ imprisonment in relation to one count of rape, one count of attempted rape, two counts of indecent assault with circumstances of aggravation, two counts of indecent assault, and one count of burglary.
- [5] On 29 October 1993 the respondent was sentenced to a total period of five years’ imprisonment in relation to one count of attempted rape, one count of indecent assault and two counts of indecent assault with a circumstance of aggravation. On 25 January 1996 he was released on parole. While on parole he committed further sexual offences on 2 September 1996. His parole order was cancelled. He was then sentenced, on 23 May 1997, to a total of 14 years’ imprisonment for the fresh offences to be served cumulatively, at the expiration of the sentence handed down in 1993. The respondent appealed the decision on the grounds that it was manifestly excessive but was unsuccessful. A recommendation for parole eligibility was set.
- [6] The respondent’s full-term release date is 28 March 2013.

Respondent’s criminal history

- [7] Counsel for the Attorney General outlined at length the respondent’s criminal history in her written submissions. As noted, the accuracy of this outline was accepted by the respondent.

Date	Description of Offence	Sentence
Taree Children’s Court (20/04/1982)	<ul style="list-style-type: none"> <i>Crimes Act (NSW)</i>: Assault <i>Crimes Act (NSW)</i>: Malicious injury 	Committed to institution 6 months Committed to institution 2 years
Taree District Court (01/02/1987)	<ul style="list-style-type: none"> <i>Crimes Act (NSW)</i>: Maliciously set fire to building with intent to injure 	4 years imprisonment with a non-parole period of 3 years served concurrently

	<ul style="list-style-type: none"> • <i>Crimes Act (NSW)</i>: Assault police • <i>Crimes Act (NSW)</i>: Larceny of a motor vehicle 	<p>1 year imprisonment served concurrently</p> <p>6 months penal served cumulatively, compensation ordered in the amount of \$57.</p>
Coffs Harbour District Court Copmanhurst (21/02/1989)	<ul style="list-style-type: none"> • <i>Crimes Act (NSW)</i>: Escape lawful custody 	<p>6 months penal servitude to be served at expiration of present sentence. Non probation period 6 months to be served cumulatively.</p>
Brisbane District Court (29/10/1993)	<ul style="list-style-type: none"> • <i>Criminal Code</i>: Attempted rape (16/1/92) • <i>Criminal Code</i>: Indecent assault (16/1/93) • <i>Criminal Code</i>: Indecent assault with circumstances of aggravation (2 charges) (16/1/93) 	<p>5 years imprisonment</p> <p>On each charge: 3 years imprisonment.</p> <p>Recommended to be considered for parole after serving 18 months imprisonment from 23/8/93.</p> <p>To take part in a treatment programme for sex offenders and also participate in an anger management programme if considered or required to maintain such whilst on parole.</p>
Brisbane District Court (23/05/1997)	<ul style="list-style-type: none"> • <i>Criminal Code</i>: Break and enter dwelling house with intent in the night-time (02/09/96) • <i>Criminal Code</i>: Indecent assault (02/09/96) • <i>Criminal Code</i>: Indecent assault with circumstances of aggravation (on 02/09/96) • <i>Criminal Code</i>: Rape (02/09/96) 	<p>8 years imprisonment</p> <p>2 years imprisonment</p> <p>4 years imprisonment</p> <p>14 years imprisonment</p> <p>All terms of imprisonment to be served concurrently but cumulatively with sentence currently being served. Conviction recorded on all offences.</p> <p>No recommendation for early parole.</p> <p>Further recommended that accused submit to any medical or psychological treatment that may be offered.</p> <p>Refer to entry dated 18/07/97 re: appeal</p>
Court of Appeal Queensland (18/07/1997)	<ul style="list-style-type: none"> • Application for leave to appeal against sentence of 23/5/97 	<p>Application granted, appeal allowed to the extent of adding to the sentence imposed a recommendation that the applicant must serve until 23/2/2003, before being eligible to apply for parole.</p>

The current offences

- [8] On 23 May 1997 the respondent pleaded guilty and was sentenced in relation to one offence each of break and enter in the night, indecent assault, indecent assault with a

circumstance of aggravation and rape. On 1 September 1996, the respondent had been drinking heavily at a family gathering. He had an argument with his wife on arriving home as he perceived that her family rejected him. He became so angry and aggressive that his wife called police who escorted her from the house. It was noted that he was not violent towards his wife and claimed to love her and wanted to rectify any problems between them.

- [9] After his wife left, at about 2:30 am, he decided to go to the victim's house. The victim was a 65 year old aboriginal woman who lived alone. The respondent knew her as his wife worked for her as a cleaner and he had been to her home with his wife on a number of occasions. The respondent was aware that the complainant suffered from memory loss or amnesia. She had been diagnosed as suffering from mild dementia syndrome.
- [10] The respondent took a pair of socks to wear on his hands and a towel to ejaculate into. On arrival at the victim's house he placed a sock on his right hand, turned off the power board, removed most of his clothes and entered through a bathroom window. The window was missing a louvre, and he broke another to enter the house.
- [11] Once inside he startled the victim who was in bed but got out of bed and started walking to the door. He covered her mouth to stop her from screaming, grabbed her and pushed her back to the bed where he lay on top of her. He then indecently assaulted her by touching her nipples and asking her to play with his which she did out of fear. He then vaginally raped her, ejaculated onto the towel and left. Throughout the ordeal he said that she asked him who he was and what he was doing and that she said 'whatever you do, just hurry up and do it and leave me be.' He also said that he knew she was scared and sensed that she was fearful of him.
- [12] The respondent's wife returned the next morning and they both slept for a couple of hours. He then went to a local shop and walked past the victim's house on the way home where he saw a Blue Nurses van. The victim rushed to him asking 'how can you do a thing like that to me?' He sought her forgiveness, which she refused.
- [13] The respondent then confessed to his wife, who told him to get out of the house. He called the police to confess his crime and was referred to a police station. He then went to his parole office and confessed to his parole officer who went to the police station with him. He participated in an interview with police and admitted to the offences. Police spoke with the victim who could recall some of the offending. She was medically examined and a mild haemorrhage in the lateral wall of her vagina was noted.
- [14] In passing sentence, Pratt DCJ noted,
"However remorseful you might feel after the event, there was no sign of any pity in your behaviour when you are imposing yourself on elderly women. They simply have to be protected from you. I think you know that ... You are a persistent offender, you have this appalling propensity to attack elderly women at night time in their houses. Those are the objective facts. The effect on this weak and elderly woman has been obviously very severe, she didn't ask for this, she extended kindness to you and your wife and you have done this."

- [15] The sentence imposed by Pratt DCJ was appealed by the respondent on the ground that it was manifestly excessive. On appeal it was found that the sentence was appropriate given the planning and premeditation involved in the offence, the fact that it was committed whilst on parole for a similar offence and that both offences were committed against elderly women indicating a form of sexual deviation that could be repeated without adequate deterrence. The Court of Appeal found that the sentencing judge had erred in failing to state how, if he did, take the respondent's plea of guilty into account; but, with regard to the totality of the sentence, the period of imprisonment imposed by the primary judge was appropriate. The Court of Appeal also found that the sentencing judge erred in not making a recommendation for his early release. The Court of Appeal allowed the appeal on this point only, and set a date for parole eligibility at 23 February 2003.

Previous offences of a sexual nature

- [16] On 23 August 1993 the respondent pleaded guilty to one count of indecent assault and two counts of indecent assault with a circumstance of aggravation. He pleaded not guilty to an offence of attempted rape and a trial ensued. The trial ran almost its full course but was aborted when inadmissible material was presented to the jury while the respondent was giving evidence. He subsequently pleaded guilty to the offence; and, on 29 October 1993, was sentenced in relation to one offence of attempted rape, one offence of indecent assault and two offences of indecent assault with a circumstance of aggravation.
- [17] The victim of all offences was the respondent's 72 year old grandmother, with whom he shared a flat. His girlfriend had also shared the flat, but the victim asked her to leave shortly after they all moved in together. On the day of the offences, 16 January 1993, the respondent, then aged 29, arrived home under the influence of alcohol. He later stated that he had been involved in an altercation with friends he had been drinking with and arrived home feeling angry. Shortly after he arrived home, the victim found him in her bedroom naked with an erect penis. She asked him what he was doing and told him to go have a sleep. The respondent then appeared naked in the lounge room, wearing socks on his hands. He locked the front door and grabbed the victim, putting his fingers inside her mouth when she tried to scream. He dragged her into his bedroom, where he had removed the light bulb. Here he attempted to rape her and performed acts constituting the indecent assault offences.
- [18] He allowed her out of the bedroom to get a glass of water but followed her into the kitchen where she attempted to get a knife. He threw her to the kitchen floor, then took her to the bedroom and forced her to engage in oral sex. When she noticed blood on her night dress she told him she was haemorrhaging and asked him if she could go to the bathroom. He followed her into the bathroom, locked the door, and again forced her to engage in oral sex. He stopped when she told him she was going to be sick. She then told him that she would join him in the bedroom if he went and put the light back in. He went to do so and she ran to a neighbour for assistance.

Drug and alcohol history

- [19] Alcohol intoxication was a factor in both incidents of sexual offending, although the submissions made by the Crown in relation to the current offences indicate that he stated that “he was under the influence of alcohol but he knew what he was doing.”
- [20] The respondent reported to Dr Moyle, the psychiatrist who interviewed him prior to the commencement of these proceedings, that from 17 to 19 he was a ‘normal drinker’. He said he would drink until drunk – at least two bottles of wine, about twice a week initially. He said he dislikes alcohol and rarely used it, which Dr Moyle noted as contradictory to his history which demonstrates significant alcohol-related crime and alcohol use.
- [21] He also reported that he smoked marijuana from ages 14-23 but did not use other drugs.

Medical and psychiatric history

- [22] The respondent reported sustaining various injuries during his youth. None of these are significant.
- [23] He also reported that he has a large fatty liver and that he may have asthma, bronchitis and type 2 diabetes.
- [24] The respondent currently sees both a psychiatrist and a psychologist for support. He had not seen a psychiatrist before being imprisoned. He reported to Dr Moyle that he suffered from depression. Further medical records have been sought to ascertain his full psychiatric history, and copies of these have been provided to Drs Moyle, Harden and Grant and a supplementary report sought from them.

Events in prison

Parole

- [25] The respondent was released to a parole order on 26 January 1996 part-way through his sentence for the first set of sexual offences. Parole records show that while he originally participated in programs and engaged with his parole officer, towards the time of the second offences he had begun to “gloss over” what was happening in his life. He committed the second offences while on parole for the first offences ultimately resulting in the cancellation of the parole order on 12 September 1996.

Breaches

- [26] The respondent has recorded the following breaches while in custody:
- 02/06/1997 – major breach for behaving in an offensive threatening manner (threatening custodial staff);
 - 16/07/1997 – major breach for behaving in an offensive threatening manner (fighting in the yard with another offender);

- 27/11/1998 – minor breach for wounds, marks or injuries (inflicting a wound on another inmate – strike to the face);
- 03/09/2004 – minor breach for acting contrary to the good order of a corrective services facility (attempting to communicate with women in Female Secure after previously being cautioned for loitering in that vicinity);
- 10/09/2008 – major breach for acting contrary to the good order of a corrective services facility

[27] The following incidents were recorded while in custody:

- 11/09/1994 – making threats against staff;
- 27/11/1998 – assault (minor) on another offender;
- 03/07/1999 – assault (minor) on another offender;
- 29/01/2001 – assault (minor) on another offender;
- 08/02/2001 – assault (minor) on another offender;

Programs

[28] The respondent has completed the following programs while in custody:

- You, Your Family, and Your Friends;
- Personal Development Course – completed 5 April 1994;
- Workshop in Non-Violent Conflict Resolution – completed 22/05/1994;
- 2nd Level Workshop in Non-Violent Conflict Resolution – completed 28/08/1994;
- Course in Self-Confidence, Ipswich College of TAFE – completed 23/09/1994;
- Drug and Alcohol Awareness Program – completed during 1994;
- Train the Trainer Workshop in Non-Violent Conflict Resolution – completed 11/12/1994;
- Pre-Release and Resettlement – completed 30/12/1994;
- Sexuality and Relationships – completed January 1995;
- Anger Management through Stress Management Resources – completed 8/03/1995;
- Anger Management (core program) – completed 10/01/2002;

- ATSI Pre-Release/Ending Offending program – completed 30/05/2002;
- Peer Support System – completed 2002;
- Cognitive Skills Program – completed 20/02/2003;
- Indigenous Sex Offender Treatment Program – completed May 2003;
- Aboriginal and Torres Strait Islander Pre-Release/Ending Offending program – completed 12/06/2003;
- Peer Support Program – completed 23/06/2005;
- Cognitive Skills Program – completed 14/10/2005;
- Transitions Program – completed 30/07/2009;
- Ending Offending – completed 27/11/2009; and
- Sexual Offending Maintenance program – completed 27 October 2010.

[29] He also trained and completed courses in:

- Spirituality 1 – completed 11/10/1994;
- Computer Operations Fundamentals, Logan City Business Academy – completed 09/10/1996;
- Literacy and Language Studies – completed January to April 1997;
- Yeronga Institute of TAFE, Literacy and Language Personal Focus, Level 2 – completed 28/07/1997;
- Yeronga Institute of TAFE, Aboriginal and Torres Strait Islander Studies: Self Identity – completed 01/09/1997;
- Literacy – Language Studies – completed January 1998;
- TAFE Queensland, Understanding Culture – completed 24/11/1999;
- TAFE Queensland, Drawing Design – Sketching – completed 04/08/2000;
- TAFE Queensland, Aboriginal Painting I – completed 03/11/2000; and
- Modules 2, 3 and 4 Access 10 English, Brisbane School of Distance Education – completed August – November 2007.

Psychiatric reports

- [30] On the hearing of this application, I had the benefit of reports prepared by three psychiatrists, Dr Moyle, Dr Harden and Dr Grant.

Psychiatric Report of Dr R J Moyle, Psychiatrist, dated 7 March 2012

- [31] This report was commissioned by Crown Law for the purposes of a risk assessment in relation to a possible application under the Act. The report was based on an interview with the respondent undertaken at the Lotus Glen Correctional Centre on 17 January 2012, as well as extracts from the Office of the Director of Public Prosecutions files, Queensland Corrective Services files, the Queensland Parole Board file and transcripts of sentencing proceedings.
- [32] Dr Moyle provided Crown Law with a report detailing previous psychological, medical, educational, developmental, drug and alcohol and offending history. He also provided his diagnosis and an assessment of his risk of recidivism upon release.
- [33] Dr Moyle concluded that the respondent poses a moderately high risk of raping elderly women in the next 15 years if not subject to an order under the Act and if that risk is not managed. He noted that the victims are likely to represent the older people of his childhood and that his sexual arousal is highest when he feels emasculated.
- [34] During the interview Dr Moyle found him at times hostile and morose. He also found the respondent's avoidance of questions relating to his sexual behaviour concerning given the nature of the offences. He appeared to accept responsibility but also sought to share the responsibility, particularly by justifying his first offence of rape by relaying that his grandmother acted in ways that were sexually provocative towards him. Notably, Dr Moyle commented that "he has an uncomfortably close mix of near psychopathic features, a paraphilia and substance use that causes most concern for re-offending violently." He identified the respondent's triggers as intoxication and feeling rejected and emasculated. He considered that his actions were sexual in nature, rather than violent, noting that he used violence only to the extent necessary to gratify his sexual motive.
- [35] The respondent justified the offences on the basis of vengeance on others for rejecting him. Dr Moyle found this justification somewhat unsatisfactory, particularly to explain his behaviour toward the victim of the second offences. The justification was vengeance on his wife's family who rejected him but he did not commit an offence upon a member of her family, rather sought out a vulnerable person only distantly connected to his wife through her work. Dr Moyle also expressed some reservations as to whether his apology the next day showed true remorse or whether it was a tactic to minimise the damage upon discovering that his victim remembered the offences and could identify him.
- [36] Dr Moyle also noted that the respondent showed some signs of gerontophilia (sexual arousal to aging adults) particularly as, in addition to the above offences on elderly women, the respondent told an elderly nun that he had the same sexual feelings for her as he did for his elderly victims. He made inappropriate comments

regarding sexual acts he would like to perform with the nun not long after he was returned to gaol for the second set of sexual offences.

- [37] Dr Moyle noted that the respondent displayed some elements of being paranoid, but not to the extent of displaying psychosis. He considered that the respondent is paranoid in his interpretation of the behaviour of others, giving it meanings that others do not see, including interpreting their behaviour as rejecting him or displaying sexual interest towards him when it is not the case.
- [38] Dr Moyle noted that recently the respondent had been doing well in prison and participating in programs and contributing to the good order of prison generally; but that he had displayed some concerning attitudes towards women throughout his incarceration. He also cautioned that “we have to be alert to the possibility that when he settles in jail and does well in jail he might not be able to translate that into the world where he will be exposed to temptations as well as angry and frustrating experiences when there is no readily available support.” He noted that similar cautions were given in the exit report for the latest sexual offending program that he completed.
- [39] Dr Moyle applied the following risk assessment instruments in rating the respondent’s risk:

STATIC 99 AND STATIC 2002: Combining these measures, Dr Moyle classified the respondent as within a group of prisoners whose risk of sexual re-offending is **moderately high**.

VIOLENCE RISK APPRAISAL GUIDE (VRAG): Dr Moyle considered that the respondent would present a risk of **55% over 7 years** and **64% risk of violent re-offending over 10 years** using this measure.

SEXUAL OFFENCE RISK APPRAISAL GUIDE (SORAG): Using this scale, Dr Moyle assessed the respondent’s risk of sexual violence if nothing changed at **75% in 7 years** and **89% in 10 years**.

CLINICAL JUDGMENT INFORMED BY ACTUARIAL INFORMATION:

HCR 20 - Dr Moyle assessed his risk of sexual/violent re-offending as **moderately high** using this approach. The respondent rated highly on 6/10 of the historical factors, and to some degree on another three of his factors but he did not rate on the major mental illness factor. Dr Moyle considers that his behaviour in jail suggests he is prone to emotional impulsive actions when upset, or a powerful urge to act for his own enjoyment. He appears not to appreciate how his behaviour generates his rejection and appears hostile when challenged.

Sexual Violence Risk 20 (SVR 20) – Dr Moyle assessed the risk using SVR 20 at present as **moderately high**. Of the 20 risk factors he has 10 items endorsed, and five partially endorsed.

Stable and Acute – His risk on the Stable score is **moderate** and when combined with his Static score it is **moderately high**. Dr Moyle considers that he will benefit over time by reinforcing the lessons he learned in the courses in jail as he exposes himself to the stressors of being in the community. He has a moderately high level of

need upon release for ongoing attendance at programs and with a therapist and perhaps a respected elder to guide his learning to live safely in the community.

Risk of Sexual Violence Protocol (RSVP) – Dr Moyle focused on the respondent’s need to overcome his impulsive urges. He noted that a therapist would need to take care in addressing his behaviour so that they do not create a situation where he feels emasculated. He noted that therapy would need to go beyond superficial coping skills and a few sessions of cognitive behavioural psychotherapy to address his entrenched emotional reactions. He noted that such an approach has been taken before and he re-offended.

Structured Assessment of Protective Factors (SAPROF) – Dr Moyle notes that the key issues that need addressing are Jerome’s sensitivity to feeling rejected or emasculated, regardless of whether it is real or perceived. He also needs to address his skills in coping with emotional stress and minimising exposure to potentially violent people.

[40] Dr Moyle diagnosed the respondent as follows:

- Axis I – Dysthymia (chronic feelings of depression not amounting to the mental illness Major Depression), possible serious paraphilia NOS, alcohol abuse;
- Axis II – Personality disorder with borderline, paranoid and antisocial elements;
- Axis III – Non insulin dependant diabetes, fatty liver, asthma and bronchitis;
- Axis IV – Moderately severe psychosocial stressors.

[41] Dr Moyle noted that if the respondent is to be released to a parole order or a supervision order he should have the combined help of sex offender treatment programs in the community, a trusted confidential therapist that will allow safe expression of his feelings and professionals who won’t abandon him if he lapses. He would also be assisted through a prohibition on contact with elderly women for the period of two years and a requirement that he abstain from alcohol and drug use. His compliance with these requirements should be strictly monitored. He would benefit from developing relationships and participating in activities with non-substance abusing men. He would also benefit from mentoring support from a non-substance abusing indigenous elder.

Report of Dr Scott Harden, Psychiatrist, dated 27 December 2012

[42] Dr Harden was appointed by court order under s 8 of the Act to provide a risk assessment report in relation to the respondent. The report was based on an interview with the respondent on 21 December 2012 at the Lotus Glen Correctional Centre and copies of the filed affidavit material in this matter.

[43] Dr Harden summarized his opinion as follows:

“At the time of this review Troy JEROME was a 45 year old man who had committed two serious sexual offences against elderly women. The first being his grandmother on his father's side of the family and the second being a woman who his wife was the carer for. Both offences were characterised by his becoming angry and having conflict with family

members (usually multiple) and also being intoxicated with alcohol and/or marijuana. Both offences showed a degree of planning and the use of threats as required to accomplish his sexual goals.

He was only released for eight months after the first offence and was on parole for this offence when he was reincarcerated for the second offence.

He had a history of other criminal offences starting from a very early age (approximately 11 years) mainly characterised by property offences with some offences against the person. As previously described there was a serious incident when he was approximately 20 when he again became angry with family members and burned down a house.

He had been placed in and out of institutional care or incarceration on and off since probably nine years of age.

As an adult the longest period I could establish that he had not been incarcerated in the community was probably a period of about two years when he was about 23 years of age.

His early environment was characterised by exposure to violence and being a victim of sexual abuse. His educational history was poor and he had never managed to obtain sustained employment. He had managed to sustain one longer term relationship albeit with substantial difficulties.

He had initially unsuccessfully completed a sexual offender program but then during his more recent incarceration has successfully completed an intensive sexual offender treatment program and a maintenance program.

It seems likely that his interpersonal behaviour is still characterised by some belief that others may be harbouring ill intent towards him but that this has improved substantially over the years with general maturation.

Diagnoses

I am not totally convinced that he has a clear paraphilia related to elderly females on the information available as the offences may just opportunistically target elderly victims because of their vulnerability. This could be debated as his pattern of two elderly victims could otherwise suggest a sexual interest in elderly women. He claims to have no such interest.

As I have noted it seems to me that anger at family members (and possibly the associated perceived rejection) combined with intoxication is the pattern that led to both the rapes and also to him burning down a family member's house when he was younger.

In my opinion he meets criteria for Personality Disorder NOS with antisocial and paranoid features demonstrated by his pattern of behaviour since adolescence which includes recurrent lawbreaking and arrest, failure to plan ahead and a degree of persistent irresponsibility as well as a persistent tendency to view others as having harmful intent towards him.

I have not seen convincing material suggesting the presence of delusional persecutory beliefs.

In my opinion he would meet a diagnosis of Alcohol Abuse, in remission because of incarceration. The alcohol abuse is significant because of the disinhibiting effect of intoxication which has contributed to his committing offences.

Risk statement

The actuarial and structured professional judgement measures I administered would suggest that his future risk of sexual reoffence is moderate to high.

My assessment of this risk is based on the combined clinical and actuarial assessment. This assessment takes into account all information made available to myself.

The critical issue in this man in my opinion is anger control and identification of triggers for anger. This is likely to have improved with age. This is likely to deteriorate if he is under the influence of any kind of intoxicant. This factor should be specifically focused on in ongoing psychological therapy.

In my opinion the monitoring and supports associated with a supervision order would reduce his risk of recidivism to moderate.

Recommendations

I would recommend that he be monitored in the community by means of a supervision order if released from detention.

I would recommend that he be required to be abstinent from alcohol and drug use and undergo an appropriate random testing regime.

I would recommend that he participate in an ongoing individual therapy program for sex offender treatment.

I would recommend that he repeat the sexual offender group maintenance program if in the community.

I recommend that he be encouraged and supported to seek appropriate training and/or employment.”

Report of Dr Donald Grant, Psychiatrist, dated 25 January 2013

[44] Dr Grant was appointed by court order under s 8 of the Act to provide a risk assessment report in relation to the respondent. The report was based on an interview with the respondent on 22 January 2013 at the Lotus Glen Correctional Centre and copies of the filed affidavit material in this matter.

[45] Dr Grant summarized his opinion as follows:
 “On the basis of my interview with Mr Jerome, the information which I have reviewed, and the formal risk assessment instruments I believe that Mr Jerome represents **a moderate risk of future sexual offending**. The major risk factors would be:

- Social isolation.
- Conflict in interpersonal relationships with feelings of rejection and victimisation.
- A lack of meaningful activity or employment in his life.
- A lack of social support from family or other associates.
- A recurrence of abuse of alcohol and/or marijuana.
- Increasing anger in relation to social or interpersonal situations with feelings of the need to express that anger in a vengeful fashion.
- Misinterpretation of the behaviour of females as sexually provocative.
- Ready access to a vulnerable female victim, perhaps an elderly female relative or friend.

Mr Jerome has undergone sexual offender treatment in prison with reported satisfactory outcomes. There would appear to be no indication of any further interventions in the custodial environment.

If Mr Jerome is released into the community the moderate risk to others in regard to future sexual offending could be reduced and contained to a low level by the imposition of a supervision order. Such an order would assist in the monitoring of Mr Jerome's social functioning and emotional state, provide structure for him to receive further individual treatment and/or group treatments as indicated, provide the ability to monitor abstinence from alcohol and drugs and assist with social rehabilitation. It is unclear at this stage to what extent Mr Jerome would cooperate with a supervision order in the community, as he would prefer to be moving to New South Wales to live near his mother. Given the previous dysfunction in that home environment it is unclear how sensible his plans would be but it is understandable that he wishes to see and support his mother in her older age. There may be a certain degree of resentment and rebelliousness in regard to a supervision order that kept him in Queensland.

If Mr Jerome were to be released without a supervision order, the risk for re-offending would remain moderate and might well then be increased by him returning to a dysfunctional environment, experiencing interpersonal problems and a sense of social isolation or social grievance, with a return to substance abuse, all of which would tend to increase the likelihood of re-offending.

If he is on a supervision order I would recommend that he receive both individual counseling and participate in some ongoing maintenance sexual offender treatment to assist his emotional adjustment and to consolidate improvements he has made in treatment in prison.

If a supervision order is made I believe that it should be in place for at least five years.”

Oral evidence of the doctors

- [46] Each of the doctors gave oral evidence before me. Each was asked about the utility of a suggested requirement in the draft supervision order to the effect that the respondent be prohibited from entering onto aged-care facilities. None of the doctors saw much point in such a requirement, and pointed to its relative impracticality. Each also highlighted the fact that the risk factors associated with the respondent derive not from proximity to elderly women, but from drug and alcohol abuse and it is therefore much more important for these factors to be regulated.
- [47] Each doctor also confirmed that, having regard to the respondent's age and time in prison, a supervision order of five years duration would be sufficient.

Order under Part 3 of the Act

- [48] In *Fardon v Attorney-General for Queensland* (2004) 210 ALR 50 Gummow J summarised the purpose of Part 3 as follows:

“[112] The purpose of Pt 3 ‘is to ensure that a prisoner’s continued detention under a continuing detention order is subject to regular review’: s 26. That statement of purpose guides the construction of the balance of Pt 3. That which is affirmed under s 30 is the primary decision ‘that the prisoner *is* a serious danger to the community in the absence of a division 3 order’ (emphasis added): s 30(1). The phrase ‘is a serious danger’ involves the use of the continuous satisfaction by the means and to the degree specified in s 30(3), the prisoner presently is a serious danger to the community in the absence of a Div 3 order. Upon the reaching of that decision, the court may order further subjection to a continuing detention order or release subject to a supervision order (s 30(3)); in making a choice between those orders, the court is to have as ‘the paramount consideration ... the need to ensure adequate protection of the present to require a decision that, by reason of the attainment of community’ (s30(4)).”

- [49] In relation to the present application, the scheme of the relevant provisions of the Act was outlined by the Court of Appeal in *A-G (Qld) v Francis* [2006] QCA 324 at paras 25-29:

“[25] The order which may be made by the court under s 13(5) of the Act, and confirmed under s 30 of the Act, is, in terms, an order made for “control, care or treatment” of a dangerous prisoner. By virtue of s 13(2) of the Act, such an order may be made only if the court is satisfied that a prisoner would constitute a serious danger to the community in the form of “an unacceptable risk that the prisoner [would] commit a serious sexual offence”. As an alternative to a continuing detention order, under s 13(5)(a), the court may order, under s 13(5)(b), that the prisoner be released from custody subject to appropriate conditions.

[26] The objects of the Act are expressed in s 3 of the Act as being:

‘(a) to provide for the continued detention in custody or supervised release of a particular class of prisoner to ensure adequate protection of the community; and

(b) to provide continuing control, care or treatment of a particular class of prisoner to facilitate their rehabilitation.’

[27] Section 13(6) provides that, in deciding whether to make an order under s 13(5)(a) or (b), ‘the paramount consideration is to be the need to ensure adequate protection of the community’.

[28] Section 13(5)(a), in speaking of a continuing detention order as an order ‘for control, care or treatment’, identifies the three purposes for which an order may be made: control of the dangerous prisoner, care for the dangerous prisoner, or treatment of the dangerous prisoner. These purposes are identified as alternatives. The phrase ‘control, care or treatment’ must, as a matter of ordinary language, be read disjunctively.

[29] This disjunctive reading suggests that there may be cases where the basis for an order may be, either

- the control of an incorrigible offender, or
 - the care of an offender whose propensities endanger the offender as well as others, or
 - the treatment of an offender with a view to rehabilitation.
- It will often be the case that more than one of these considerations will inform the making of an order.”

[50] Counsel for the respondent conceded that “the psychiatric evidence available in the proceedings tends to support the making of a supervision order” pursuant to s 13 of the Act.

[51] Having noted that concession, I also record, lest there be any doubt, that the evidence before me is acceptable, cogent evidence which persuades me to a high degree of probability that the evidence is of sufficient weight to justify me making a decision under s 13(1) that the respondent represents a serious danger to the community within the meaning of s 13(1).

[52] As already noted, there was no issue that a supervision order is the appropriate order to be made under s 13 in this case.

[53] In light of the expert psychiatric evidence before me, which I have detailed above, a supervision order is clearly the appropriate form of relief in this case. I reach that conclusion, noting that the paramount consideration is the need to ensure adequate protection of the community.

[54] A supervision order has effect in accordance with its terms for the period stated in the order – s 15(b). A supervision order must be made for a definite term.¹ Having

¹ *Attorney-General (Qld) v Van Dessel* [2006] QCA 285.

regard to the evidence of the psychiatrists, I am of the view that the term of the supervision order in this case should be for five (5) years.

- [55] There will, therefore, be a supervision order, pursuant to s 13(5)(b) of the Act, in the terms set out in Annexure A to this judgment.

ANNEXURE A

THE COURT, being satisfied to the requisite standard that the respondent, Troy Jerome, 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:

1. The respondent, upon release from custody on 28 March 2013, be subject to the following conditions until 28 March 2018:

The respondent must:

- i report to a Corrective Services officer at the Queensland Corrective Services Probation and Parole Office closest to his place of residence between 9:00am and 4:00pm on the day of his release from custody and at that time advise the officer of his current name and address;
- ii report to, and receive visits from, a Corrective Services officer at such times and at such frequency as determined by Queensland Corrective Services;
- iii notify a Corrective Services officer of every change of his name, place of residence or employment at least two business days before the change happens;
- iv be under the supervision of a Corrective Services officer;
- v comply with a curfew direction or monitoring direction;
- vi comply with any reasonable direction under s 16B of the Act given to him;
- vii comply with every reasonable direction of a Corrective Services officer that is not directly inconsistent with a requirement of the order;
- viii not leave or stay out of Queensland without the permission of a Corrective Services officer;
- ix not commit an offence of a sexual nature during the period of the order;
- x 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;
- xi notify an 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 days prior to commencement or any change;
- xii 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;
- xiii if this 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;
- xiv not reside at a place by way of short term accommodation including overnight stays without the permission of an authorised Corrective Services officer;
 - xv not commit an indictable offence during the period of the order;
 - xvi respond truthfully to enquiries by an authorised Corrective Services officer about his activities, whereabouts and movements generally;
 - xvii not have any direct or indirect contact with a victim of his sexual offences;
 - xviii 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 from 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;
 - xix notify an authorised Corrective Services officer of the make, model, colour and registration number of any vehicle owned by or generally driven by him, whether hired or otherwise obtained for his use;
 - xx submit to and discuss with an authorised Corrective Services officer a schedule of his planned and proposed activities on a weekly basis or as otherwise directed;
 - xxi 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;
 - xxii abstain from the consumption of alcohol and illicit drugs for the duration of this order;
 - xxiii submit to any form of drug and alcohol testing including both random urinalysis and breath testing as directed by an authorised Corrective Services officer;
 - xxiv disclose to an authorised Corrective Services officer all prescription and over the counter medication that he obtains;
 - xxv not visit premises licensed to supply or serve alcohol, without the prior written permission of an authorised Corrective Services officer;
 - xxvi 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;
 - xxvii permit any medical, psychiatrist, psychologist, social worker, counsellor or other mental health professional 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;

- xxviii 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 treating medical, psychiatric, psychological or other mental health practitioners where appropriate;
- xxix develop a risk management plan in consultation with a treating psychologist or psychiatrist and discuss it as directed with an authorised Corrective Services officer;
- xxx notify an authorised Corrective Services officer of any computer or other device connected to the internet that he regularly uses or has used;
- xxxi supply to an authorised Corrective Services officer any password or other access code known to him 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;
- xxxii advise an authorised Corrective Services officer of the make, model and phone number of any mobile phone owned, possessed or regularly utilised by him within 24 hours of connection or commencement of use, which includes reporting any changes to mobile phone details;
- xxxiii except with prior written approval from an authorised Corrective Services officer, must not to own, possess or regularly utilise more than one mobile phone; and
- xxxiv notify the supervising Corrective Services officer of all personal relationships entered into by him.