SUPREME COURT OF QUEENSLAND

CITATION:	*Attorney-General for the State of Queensland v Stevens* [2013] QSC 168
PARTIES:	**ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND** (applicant) **v** **WESLEY SHANE STEVENS** (respondent)
FILE NO:	BS 8419 of 2011
DIVISION:	Trial Division
PROCEEDING:	Application
ORIGINATING COURT:	Supreme Court of Queensland
DELIVERED ON:	11 June 2013 (ex tempore)
DELIVERED AT:	Brisbane
HEARING DATE:	11 June 2013
JUDGE:	Applegarth J
ORDER:	**The Respondent, Wesley Shane Stevens, be released from custody and continue to be subject to the supervision order made by Boddice J on 20 February 2012**
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 of a supervision order – where applicant acknowledges that the respondent has done so *Dangerous Prisoner (Sexual Offenders) Act* 2003 (Qld), s 22
COUNSEL:	M Maloney for the applicant K Bryson for the respondent
SOLICITORS:	Crown Law for the applicant Legal Aid Queensland for the respondent

HIS HONOUR: This is the hearing of a proceeding about an admitted contravention of a supervision order made under the *Dangerous Prisoners (Sexual Offenders) Act* 2003 ("the Act"). The applicant Attorney-General acknowledges that the respondent has discharged the onus imposed upon him under section 22 of the Act and the applicant submits that the Court ought to be satisfied that adequate protection of the community can, despite the contraventions, be ensured by the supervision order in its current form.

I am satisfied of that for the reasons that appear in the respective submissions of counsel for the applicant and counsel for the respondent. Those submissions are most helpful.

Shortly stated, the applicant became subject to a supervision order made on 20 February 2012 that made him subject to a supervision order for a period of five years. Without going into the detail of the respondent's past, that index offence was indecent treatment of a child under 12 years that was committed when the respondent entered a dwelling house with intent. He received a sentence of six years imprisonment on 6 March 2006. The only other offence of a sexual nature was one he committed as a juvenile.

At once it should be stated that the respondent is not a paedophile. However, his history of drug and alcohol abuse gave rise to an unacceptable risk of his committing a further offence unless a supervision order was made. The critical requirement was for him to abstain from alcohol.

The respondent comes from North Queensland. He is an indigenous gentleman of mixed Aboriginal and Melanesian heritage. He wishes to reestablish connections with his family and his community. In a report prepared for this hearing Dr McVie has said that the risk of his reoffending would be minimised if he were relocated into a proper community placement with supportive family and an indigenous mentor, his artistic ability should be utilised and he should be engaged in meaningful employment.

After being placed on the supervision order the respondent was transferred to what is described as contingency accommodation at the Wacol precinct. The purpose of that accommodation is temporary accommodation. It is expected that people won't stay there for more than three months, and during the time that they stay at that precinct or a similar precinct at Townsville they are expected to find accommodation in the community.

I have not read the voluminous files in this matter in great detail. From what I am told today, however, the applicant wished to reside at Babinda in Far North Queensland but there was a problem with GPS reception there. That may be one of the reasons why he was unable to get accommodation there.

As matters transpired, rather than staying at the Wacol precinct for a few months, he was still there at Christmas 2012. He had abstained from alcohol and seemed to be going rather well. There were a few problems, which I need not dwell upon.

The current contravention arises because the applicant arranged for a female friend to visit him in Brisbane. She arrived from Far North Queensland and went to the

Wacol precinct. She originally was going to stay in a motel, it seems, from my reading of the material. However, that did not happen, and she ended up at the Wacol precinct in the respondent's room on Christmas Day. Her presence was detected. As she was ejected from the Wacol precinct the respondent was concerned that she had been ejected without money. She is not from Brisbane. Things went from bad to worse, and the respondent obtained a bottle of rum and drank most of it on 26 December and in consuming that alcohol he breached another term of his supervision order.

He was arrested and by order of this Court made on 28 December was placed in detention pending this final hearing, which has occurred more than six months later.

The respondent has been dealt with in the Magistrates Court for his contraventions of the order and has been appropriately punished.

It is unfortunate this matter has taken so long to come on for a hearing. Although I have benefited from the reports of Professor Nurcombe and Dr McVie, with all due respect, their reports state what is perhaps obvious; that is, adequate protection of the community can be ensured by the applicant remaining on the supervision order that was previously made, and if he remains on that supervision order and does not resume drinking or taking illicit drugs, the risk of his reoffending is low.

I have already referred to Dr McVie's recommendation as to the respondent's future accommodation. I should say Professor Nurcombe also canvassed the possibility of the respondent being transferred to accommodation in the Townsville area and that he should continue in psychotherapy with a counsellor in the community.

Understandably, the respondent expressed some reservations to Professor Nurcombe about living in the Townsville precinct houses. His obvious preference was to go and live with his family as soon as possible. However, the respondent understands that the best temporary course of action is for him to reside at the Townsville precinct, establish a therapeutic relationship with a counsellor in Townsville, and organise himself so as to obtain support in the community and accommodation in the community. I allowed the respondent to say some things in that regard at today's hearing.

At the risk of repeating what I have said on unfortunately too many occasions, there is a problem with the accommodation of people who are subject to this Act. There is a problem in individuals subject of this Act finding suitable accommodation in the community. That includes indigenous individuals from North Queensland and Far North Queensland. People who are subject to the Act have limited means of support, the fact that they are subject to the Act limits the opportunity that they have to obtain private accommodation and there is very little public accommodation in hostels or anywhere else in Far North Queensland.

The proposition that the respondent should reside temporarily at the Townsville precinct is an understandable one. However, the problems with that Townsville precinct have been stated and restated by me in judgments. That will only be a suitable course if it is temporary accommodation. If the respondent suffers the problems that other people have suffered at that precinct of having difficulty in accessing support in the community, difficulty in accessing transport, difficulty in

even being able to go to the shops to buy some necessities, then he will be frustrated and the risk exists that he will do something stupid. That would be unfortunate for his rehabilitation and, therefore, unfortunate for the protection of the community if his rehabilitation is impaired.

I have briefly explained to the respondent that it is his responsibility to find accommodation in the community, as difficult as that may be. The Court of Appeal has explained that under the Act a judge cannot impose requirements on the government. If I was able to do so I would require the government to take steps to find suitable accommodation for the respondent in the community. I am powerless to do that.

What I would, though, expect is that if suitable accommodation can be found for the respondent in the community the fact that the particular location has poor GPS reception would not be a reason in itself as to why the respondent should not reside at that accommodation.

It seems to me that this whole problem has come about because of the systemic and endemic problems that exist in finding suitable accommodation for people who are subject to this Act and the sooner the authorities address that problem the better. Otherwise this Court will continue to hear contravention proceedings in circumstances where a more appropriately resourced and more efficiently resourced system would be providing resources for the accommodation of individuals like Mr Stevens in the community, rather than expending resources on psychiatrists, lawyers and Judges.

I am satisfied to the required standard that the respondent has contravened the requirements of the supervision order made by Justice Boddice and I order that he be released from custody and continue to be subject to the supervision orders made by Justice Boddice on 20 February 2012.

I make an order in terms of the draft which I initial and place with the papers.