

SUPREME COURT OF QUEENSLAND

CITATION: *Attorney-General for the State of Queensland v Gerrits*
[2013] QSC 258

PARTIES: **ATTORNEY-GENERAL FOR THE STATE OF
QUEENSLAND
(applicant)**

v

**ALBERT HENDRYKUS GERRITS
(respondent)**

FILE NO: BS7385 of 2006

DIVISION: Trial Division

PROCEEDING: Application

DELIVERED ON: 14 May 2013 (ex tempore)

DELIVERED AT: Brisbane

HEARING DATE: 14 May 2013

JUDGE: Margaret Wilson J

ORDERS: **1. Contravention hearing pursuant to s 22 of the
Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld)
be adjourned to a date to be fixed.**

**2. Pursuant to s 22 of the Act, the respondent be
detained in custody until the final decision of the
Court under s 22.**

3. Liberty to apply granted.

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 supervision order by the use of illicit drugs –
whether respondent should be detained in custody until the
final decision of the Court with respect to the contravention is
made

*Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld), s
20, s 21*

COUNSEL: JM Sharp for the applicant
D Shepherd for the respondent

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

MARGARET WILSON J: On 19 July 1991, the respondent was sentenced to a term of imprisonment of 16 years for sexual offending against an adult woman.

He is before the Court today as he has been arrested pursuant to a warrant issued on 10 May 2013 following alleged contravention of a supervision order made under the Dangerous Prisoners (Sexual Offenders) Act 2009. The supervision order was made by Justice Helman on 6 February 2007.

There have been three previous occasions on which the respondent has been brought before the Court for contravention of that supervision order by the use of illicit drugs, namely, cannabis, amphetamine and methylamphetamine.

The order was amended by Justice Daubney on 17 December 2009.

In the present case there are alleged contraventions of conditions 13, 23 and 25. Those conditions are as follows: that the respondent must (13) comply with every reasonable direction of an authorised corrective services officer; (23) take prescribed drugs only as directed by a medical practitioner; and (25) submit to any form of drug and alcohol testing as directed by the authorised corrective services officer.

The details of the alleged contraventions are contained in an affidavit of Eloise Hamlett, filed by leave today. The affidavit details a series of incidents between 11 April and 2 May 2013.

On 11 April 2013, the respondent informed his supervising officer that he had been taking 800 milligrams of Seroqual instead of the prescribed 200 milligrams, as he had not been able to sleep. On 12 April 2013, he provided a sample of urine for analysis. This tested presumptively positive to benzodiazepine, methylamphetamine and morphine. The sample was taken to the Queensland Health Forensic and Scientific Services for further analysis and the presumptive findings were confirmed.

On 20 April 2013, a Queensland Corrective Services officer undertook a home visit when it was noted that the respondent's behaviour and presentation had significantly deteriorated compared with previous interactions. Officers attempted to conduct a breath test, but the respondent became extremely aggressive and confrontational and attempted to grab the alcometer from the officer. He continued acting in an abusive and aggressive manner, feigning close fist striking motions towards staff. When he was directed to move back so that the officers could exit the property, he failed to do so and violence escalated.

On 22 April 2013, a further home visit was conducted. He was observed to be unsteady and in a confused state. He was requested to submit to a breath test which was negative. He was subsequently transferred to the Wacol District Office for the purpose of submitting to urianalysis in accordance with requirement 25. This returned a presumptively positive result for benzodiazepine.

On 24 April 2013, he was admitted to the Mater Hospital for an infection in his right arm. The sudden deterioration in his behaviour and attitude and infection resulting in

hospitalisation were attributed to prescribed medication misuse. He disclosed to a psychologist that he had injected OxyContin which had been prescribed to him in order to manage pain for a stomach condition. On 2 May 2013, he disclosed ongoing prescribed medication misuse and attributed his injured arm to either injecting medication, self-harm, or an injury whilst erecting a fence.

In the course of his admission to hospital, self reports and collateral checks with treating practitioners, he contravened requirement 23 by misuse of prescribed medication, namely, taking an increased dosage of Seroquel and the intravenous use of OxyContin.

Under section 21 of the Act, if a released prisoner is brought before the Court under a warrant issued under section 20, as the respondent has been, the Court must order that he be detained in custody until the final decision of the Court under section 22 with respect to the contravention, or release him if he satisfies the Court, on the balance of probabilities, that his continued detention in custody pending the final decision is not warranted because of exceptional circumstances.

The parties have agreed to the terms of a draft order providing that the contravention hearing be adjourned to a date to be fixed, and that the respondent be detained in custody until the final decision of the Court under that order. Further, that there be liberty to apply.

An order in those terms is in the circumstances appropriate and I make such an order.
Order as per draft.
