

# SUPREME COURT OF QUEENSLAND

CITATION: *Attorney-General for the State of Queensland v Yeatman*  
[2014] QSC 144

PARTIES: **ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND**  
(applicant)  
**v**  
**TRENT THOMAS YEATMAN**  
(respondent)

FILE NO/S: SC No 187 of 2014

DIVISION: Trial

PROCEEDING: Application

ORIGINATING COURT: Supreme Court of Queensland

DELIVERED ON: 30 June 2014

DELIVERED AT: Brisbane

HEARING DATE: 30 June 2014

JUDGE: Philippides J

ORDER: **Order for supervised release of the respondent on the conditions provided in the draft order as initialled.**

COUNSEL: K Philipson for the applicant  
J Sharp for the respondent

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

## **The application**

- [1] The respondent is due for full-time release on 5 July 2014 having served a total of 15 years imprisonment for two serious rapes (amongst other associated charges) committed when he was 19 years old.
- [2] The applicant seeks a Division 3 order under the *Dangerous Prisoners (Sexual Offenders) Act* 2003 (the Act) that the respondent be detained in custody for an indefinite term for care, control or treatment or that he be released from custody subject to such conditions as the court considers appropriate and that are stated in the order: s 13(5). Such an order may only be made if the court is satisfied the respondent is a “serious danger to the community” in the absence of a Division 3 order: s 13(1). The applicant bears the onus of proof as to that: s 13(7).

- [3] Section 13(2) provides:  
“A prisoner is a serious danger to the community as mentioned in subsection (1) if there is an unacceptable risk that the prisoner will commit a serious sexual offence—  
(a) if the prisoner is released from custody; or  
(b) if the prisoner is released from custody without a supervision order being made.”
- [4] Section 13(4) sets out the list of factors the court must take into account in determining whether there is such an unacceptable risk. The paramount consideration in deciding whether to make such an order is the need to ensure adequate protection of the community: s 13(6).
- [5] The court may make a final order only if it is satisfied by acceptable, cogent evidence, and to a high degree of probability that the evidence is of sufficient weight to justify the decision: s 13(3)
- [6] It is common ground that the respondent is a serious danger to the community in the absence of a Division 3 order. I am satisfied to the standard required that the respondent is a serious danger to the community in the absence of an order under Division 3 of the Act. There is an unacceptable risk that he will commit a serious sexual offence if released from custody without a supervision order being made.
- [7] The question that arises is whether release subject to a supervision order would adequately protect the community. As to that question, the applicant acknowledged in its written submissions that the risk assessment reports of Drs Harden, Moyle and Grant supported the respondent’s release from custody subject to a supervision order. That acknowledgement was made subject to the contents of the exit report relating to the respondent’s participation in the Sexual Offender Program for Indigenous Males (SOPIM). That report was received on 26 June 2014 and was regarded by the experts as supporting release on a supervision order. In those circumstances, the applicant did not resile from the concession made in written submissions.

### **Exit Report**

- [8] The respondent commenced the SOPIM on 8 April 2013 and completed it on 20 June 2014. The report indicates that the respondent’s attitude to, and engagement in, treatment has improved significantly since he was first offered placement in the Getting Started: Preparatory Program in February 2006. On completion of that program in July 2013, he was described as an “active and engaged participant throughout the program”, although there were continuing concerns about the respondent’s motivation and hearing impairment and particular treatment needs relating to his partial denial of the offences and limited acceptance of responsibility.
- [9] Nevertheless, as the SOPIM progressed, so did the respondent’s acceptance of responsibility. He was able to identify the offences as “cowardly acts”, he acknowledged that he had treated the victims as his property and attributed his long period of incarceration to his own behaviour.

- [10] As to background factors relevant to the offending, the respondent demonstrated “some emerging understanding of the link between background factors identified in his Autobiography, immediate factors identified in his Disclosure, the build-up, and triggers occurring during his offence pathways”.
- [11] The respondent identified drug and alcohol use as primary risk factors. Facilitators thought that while that represented developing awareness, further work ought be done to highlight the significance of upbringing, core beliefs and coping strategies on offending behaviour. The respondent’s empathy for others improved over the course of the program. That included empathy for others in the group and empathy for his victims. He demonstrated remorse and insight. Further, signs of hostility and “self-centredness” were thought to be protective mechanisms rather than indications of a lack of concern. Hostility increased when the respondent felt unsafe or threatened and facilitators opined that the respondent’s engagement with supervision would increase as his sense of safety and trust increased. Facilitators observed that intervention would be necessary upon release to assist the respondent to maintain emotional stability, particularly given the inevitable stress and anxiety associated with daily activities following a long period of incarceration.
- [12] In developing a New Future Plan (NFP) as part of the program, the respondent “demonstrated a strong commitment to change, and understanding of risk factors, the role of positive self-talk in behavior change, and an ability to implement his identified strategies in response to these risks. Because he has had limited awareness of the problems that might actually face him in the community, facilitators recommend that the respondent practice his coping and problem-solving strategies with his case manager upon release.”
- [13] Overall, the report is very positive and it was noted that:  
 “Prisoner Yeatman displayed a positive attitude toward supervision, and indicated a significant need for supervision, on-going treatment and reintegration support upon his release to community to assist him in the navigation of a new environment, the development of life skills, and the ongoing development and consolidation of gains made and needs identified in the SOPIM. The writers assert that this support is paramount to the mitigation of future risk and to reintegration success. It is noted he was very co-operative with supervision towards the end of the program and has expressed significant motivation to engage with a case manager and potential extended supervision upon release to the community.”
- [14] The facilitators recommended referral to ATODS and/or Alcoholics Anonymous, as well undertaking the Staying on Track: Sexual Offenders Maintenance Program upon release. In the event of entering a relationship, Relationships Australia has been identified as an appropriate organisation to provide support and assistance.
- [15] It was also noted that the respondent has been registered with the Pathways 2 Employment program and has completed a career and employment pathway plan to assist in post-release employment.

### **Expert Opinion**

- [16] The three experts provided reports and unanimously made the following diagnoses:

- Alcohol abuse and dependence (now in remission in custody)
- Cannabis abuse and possible dependence (now in remission in custody)
- Anti-social Personality Disorder with Psychopathic Traits.

[17] It is agreed that the respondent is not paedophilic.

[18] As stated, all three psychiatrists opined that the respondent's risk of sexual recidivism could be reduced by a strict supervision order.

*Dr Grant*

[19] Dr Grant assessed the respondent on 6 March 2014 for his report dated 10 March 2014. He noted that the respondent's bilateral deafness has been a significant problem that is now relieved by hearing aids. According to the respondent, the improvement to his hearing has positively impacted on his ability to cooperate with people and participate in courses.

[20] At the time of the assessment the respondent was completing the SOPIM, which Dr Grant reported as being helpful in teaching him "warning signs, risky situations, how to avoid crossing the line". In that regard, the respondent reported to Dr Grant that if he was tempted by alcohol or drugs upon release, he would seek assistance from ATODS, counsellors and men's groups.

[21] In his report, Dr Grant observed that the respondent showed none of the hypervigilance or suspicious attitudes described during his interview with Dr Harden some 12 months previously. Dr Grant noted that the respondent described difficulty remembering the details of his sexual offending and it was Dr Grant's impression that the respondent engaged in a degree of minimisation of the severity of his offending, but nevertheless Dr Grant opined that overall the respondent seemed to be taking reasonable responsibility for the facts of his offending. In addition, the respondent spoke very positively about his participation in the sexual offender program. He was able to describe distorted attitudes that had contributed to his previous offending, and he demonstrated fair insight into ways in which he would need to change his behavior to resist offending in the future (particularly staying away from drugs and alcohol).

[22] Dr Grant's informal conversation with a senior member of staff (in the Prisoner Programs Department) confirmed that the respondent had displayed significant improvement and was more positive and had a better relationship with staff than in the past.

[23] Dr Grant administered a number of actuarial instruments. He assessed the respondent's overall level of risk of sexual recidivism as moderate to high, with the potential to increase to high if alcohol and drug abuse was not contained. Dr Grant opined that the respondent's future risk related to the combination of his personality disorder and his alcohol and drug problems.

[24] Dr Grant opined that a supervision order that accommodated specific future management needs would reduce the risk to the community to moderate. In oral evidence after having seen the exit report, Dr Grant confirmed his written opinion.

- [25] Dr Grant identified future management needs that would be required to be addressed by a supervision order. Future management would need to be directed to the respondent's abstinence from alcohol and drugs and assistance with social rehabilitation, with the emphasis on employment, the development of a positive social network and the encouragement of positive family or peer supports. Additionally, the respondent required access to alcohol counselling and personal counselling and would benefit from a future maintenance sexual offender program.
- [26] To assist in addressing the management needs identified, Dr Grant suggested as appropriate a curfew condition. He did not consider that a condition banning contact with children was indicated, given that the respondent is not paedophilic. Such risks as were identified were better addressed by the Integrated Offender Management Systems and the other conditions provided in the draft order. Nor did Dr Grant consider that there was any requirement for a condition prohibiting visits to public parks without prior written approval. He indicated that he understood any such condition was directed to the managing of alcohol abuse but opined that that issue was more appropriately and directly addressed by other conditions in the draft order and he did not consider that such a condition would assist in decreasing identified risks. To the contrary, he considered that such a condition could hamper social rehabilitation.
- [27] Dr Grant indicated that he had altered the opinion expressed in his written report in terms of the duration of a supervision order, which he now considered should be of 10 years duration.

*Dr Harden*

- [28] Dr Harden saw the respondent on 4 April 2013 and administered numerous tests in his risk assessment of the respondent. At the time Dr Harden prepared his report in 2013, the respondent had not engaged in a sexual offender treatment program and Dr Harden recommended that that occur prior to any consideration of release into the community.
- [29] Dr Harden identified the critical issues for the respondent as being intoxication, violation of social rules and laws, lack of empathy for other people and lack of vocational and social structure in the community. Taking into account a number of formal assessments, Dr Harden assessed the respondent's risk of sexual reoffending as high, but opined that the risk would be reduced to moderate with monitoring, supports and abstinence from alcohol associated with a supervision order. He noted, however, that those supervising the respondent would be best informed by a plan developed within a treatment program that was yet to be completed.
- [30] Dr Harden gave oral evidence after having the opportunity to have regard to the exit report. In his view, the report indicated good progress but there was a need for ongoing psychiatric therapy.
- [31] Dr Harden considered that a supervision order with conditions as provided in the draft (without conditions 30 and 31) would adequately address the risk factors he identified, such as alcohol abuse and the respondent's personality structure. In particular, he recommended a random testing regime for drug and alcohol use and that the respondent be actively encouraged and supported to seek appropriate training and/or employment. He did not support conditions 30 and 31 for the same

reasons stated by Dr Grant and went as far as to indicate they would be counter-productive by making reintegration more difficult. It would increase the risk of reoffending because of negative emotions.

- [32] He stated that he favoured a 10 year term for the supervision order.

*Dr Moyle*

- [33] After assessing the respondent on 25 February 2014, Dr Moyle provided a report dated 22 April 2014. He also provided an updated report dated 25 June 2014 and gave oral evidence. In his report, Dr Moyle set out the respondent's account of a prejudicial childhood, which he observed was likely to have affected his core values and capacity for empathy. The respondent was said to function at a low average intelligence. Dr Moyle expressed concerns relating to the respondent's non-conformity and a tendency to isolate himself.

- [34] Dr Moyle expressed some reservation as to whether recent improvements seen by program co-ordinators would necessarily survive the respondent's release into the community. However, Dr Moyle acknowledged that the respondent's hearing impairment had served to isolate him in the past and had added to his anti-social personality disorder. That impairment has now been addressed by the provision of hearing aids and the respondent has completed the SOPIM that was being undertaken at the time of interview.

- [35] On balance, Dr Moyle opined that if the gains made during the treatment program were transferred into the community then close monitoring and supervision (including by random drug and alcohol testing, participation in a maintenance program and individual treatment) would reduce the risk of sexual recidivism from high to moderate-high. In that regard, Dr Moyle suggested a structured reintegration into the community, commencing with a requirement that he live in monitored residences while being supervised by officers who were able to make enquiries about his work and relationships.

- [36] In his subsequent report, Dr Moyle clarified that he and Dr Grant were not at odds in respect of their opinions. In relation to conditions appropriate for a supervision order, Dr Moyle agreed that a curfew as suggested by Dr Grant would conform with his suggestion of a "slow graded reintegration process".

- [37] In oral evidence, he also stated that the proposal that the respondent initially be accommodated in the housing precinct attached to the Townsville Correctional Centre also accorded with that view. Dr Moyle shared Dr Grant's views regarding the lack of utility regarding any condition aimed at preventing access to children and also did not consider a condition was required preventing access to parks without written permission. Dr Moyle confirmed in his oral evidence that the balance of the conditions in the draft supervision order adequately addressed the risk factors identified for the respondent. He considered 10 years to be an appropriate duration for such an order.

**Submissions**

- [38] In making submissions, counsel for the respondent relied on the principles stated in *Attorney-General v Francis* [2007] 1 Qd R 396:

“The Act does not contemplate that arrangements to prevent such a risk must be ‘watertight’; otherwise orders under s 13(5)(b) would never be made. The question is whether the protection of the community is adequately ensured. If supervision of the prisoner is apt to ensure adequate protection, having regard to the risk to the community posed by the prisoner, an order for supervised release should, in principle, be preferred to a continuing detention order on the basis that the intrusions of the Act upon the liberty of the subject are exceptional, and the liberty of the subject should be constrained to no greater extent than is warranted by the statute which authorised such constraint.”

- [39] Counsel for the respondent submitted that the exit report indicated that significant improvements have been made during the SOPIM in the areas of particular concern, including non-conformity, a tendency towards isolation and lack of empathy and remorse.
- [40] Although Dr Moyle raised some concerns about the respondent’s capacity/willingness to comply with a supervision order, his oral evidence was that the supervision order was adequate to address identified risks and he did not advocate for a detention order to adequately protect the community.
- [41] All the experts referred in positive terms to the respondent’s significant improvements made during the treatment program and the very positive attitude towards compliance indicated.
- [42] I note that it is not suggested that any further treatment, or rehabilitation gain that might be made in a custodial setting, could not be made in the community. All of the suggestions made by the psychiatrists can be accommodated by the order proposed.
- [43] Counsel for the respondent submitted that the draft supervision order (with the deletion of conditions 30 and 31) was apt to address the need to closely monitor the respondent upon release. Although not agreeing to the deletion of those conditions, counsel for the applicant acknowledged that the expert opinion is unanimously to the effect that the initially proposed conditions 30 and 31 are not apposite in the present case. In my view, those conditions should not be imposed in the absence of expert support for them.
- [44] In all of the circumstances, I am satisfied on the expert evidence available that the community can be adequately protected by the imposition of a supervision order for a term of 10 years. The applicant did not submit to the contrary. In terms of the stringent conditions contained in the draft order, I note that, importantly, the order requires complete abstinence from drugs and alcohol and assumes regular contact with a case manager. In addition, the respondent will be required to make weekly plans for review by his case manager, he will be referred to a psychologist for one-on-one treatment and he will be the subject of GPS monitoring and random drug/alcohol testing. I note that the affidavit of Jolene Monson deposes to steps already taken to address the need for stable accommodation and psychological treatment.
- [45] I make a supervision order in the terms of the draft provided.