

# SUPREME COURT OF QUEENSLAND

CITATION: *Attorney-General for the State of Qld v Jacob* [2015] QSC 273

PARTIES: **ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND**  
(applicant)  
v  
**RAYNARD SMITH JACOB**  
(respondent)

FILE NO/S: SC No 5548 of 2015

DIVISION: Trial Division

PROCEEDING: Application

ORIGINATING COURT: Supreme Court at Brisbane

DELIVERED ON: 22 September 2015

DELIVERED AT: Brisbane

HEARING DATE: 21 September 2015

JUDGE: Ann Lyons J

ORDER: **Pursuant to s 13(5)(b) of the *Dangerous Prisoners (Sexual Offenders) Act 2003*, the respondent be subject to a supervision order in terms of the order in the attached Schedule for a period of five years.**

CATCHWORDS: CRIMINAL LAW – SENTENCE – SENTENCING ORDERS – ORDERS AND DECLARATIONS RELATING TO SERIOUS OR VIOLENT OFFENDERS OR DANGEROUS SEXUAL OFFENDERS – DANGEROUS SEXUAL OFFENDER – GENERALLY – where the applicant seeks a Division 3 order under the *Dangerous Prisoners (Sexual Offenders) Act 2003* that the respondent be detained indefinitely for control, care or treatment, or alternatively, that the respondent be released subject to a supervision order – where the respondent argues that the evidence is insufficient to justify a finding that the respondent is a serious danger to the community in the absence of a Division 3 order – whether the respondent presents a serious danger to the community in the absence of a Division 3 order – whether the respondent should be subject to a Division 3 order

*Dangerous Prisoners (Sexual Offenders) Act 2003*, s 3, s 13, s 15, s 27, Schedule

*Attorney-General v Van Dessel* [2006] QSC 16, considered

COUNSEL: B H Mumford for the applicant  
M C Chowdhury for the respondent

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

**ANN LYONS J:**

- [1] The applicant, Attorney-General for the State of Queensland, applies under s 13 of the *Dangerous Prisoners (Sexual Offenders) Act 2003* (the Act) for a Division 3 order that the respondent, Raynard Smith Jacob, be detained indefinitely for control, care or treatment or alternatively an order that he be released subject to a supervision order.
- [2] Counsel for the respondent argues that the evidence is insufficient to justify a finding that the respondent is a serious danger to the community in the absence of such an order.

**The requirements of the Act**

- [1] The objects of the Act are stated 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 to the community; and
- (b) To provide continuing control, care or treatment of a particular class of prisoner to facilitate their rehabilitation.”
- [2] For the purpose of this application, a prisoner includes a person who is detained in custody, serving a period of imprisonment for a serious sexual offence. That term is defined as an offence of a sexual nature, whether committed in Queensland or outside Queensland, involving violence or against children.
- [3] Section 13 of the Act provides for the making of a continuing detention order or a supervision order. Before an order can be made pursuant to this section, the Court must be satisfied that the prisoner is a serious danger to the community in the absence of a Division 3 order because there is an unacceptable risk that the prisoner will commit another serious sexual offence if released from custody or released without a supervision order being made. Furthermore, s 13(3) provides that a Court may only make a finding that a person is a serious danger to the community if the Court is satisfied by acceptable and cogent evidence. In *Attorney-General v Van Dessel*,<sup>1</sup> White J stated that what is at stake is a prisoner’s fundamental legal right to unfettered personal liberty on the expiration of the term of imprisonment. The serious nature of the inquiry is emphasised in the Act by the requirement that a Court only make a finding that a person is a serious danger to the community if it is satisfied to a “high degree of probability”.
- [4] A continuing detention order is subject to periodic review.<sup>2</sup> A supervision order is made for a definite term.<sup>3</sup> In determining whether to make a detention order or a supervision

---

<sup>1</sup> [2006] QSC 16, [17].

<sup>2</sup> *Dangerous Prisoners (Sexual Offenders) Act 2003*, s 27.

<sup>3</sup> *Dangerous Prisoners (Sexual Offenders) Act 2003*, s 15.

order, s 13(6) provides that the paramount consideration is the need to ensure the adequate protection of the community.

- [5] Section 13(4) of the Act sets out the matters to which the court must have regard in determining whether a prisoner is a serious danger to the community in the absence of a division 3 order:
- the reports prepared by the psychiatrists;
  - any other medical, psychiatric, psychological or other assessment relating to the prisoner;
  - information indicating whether there is a propensity on the part of the prisoner to commit serious sexual offences in the future;
  - whether or not there was a pattern of offending behaviour;
  - efforts to address the cause or causes of the prisoner's offending behaviour, including participation in rehabilitation programs;
  - whether the participation in the programs has had a positive effect on the prisoner;
  - the prisoner's antecedents and criminal history;
  - the risk that the prisoner will commit another serious sexual offence if released into the community; and
  - the need to protect the members of the community.
- [6] Pursuant to s 13(7) of the Act, the Attorney-General has the onus of proving that a prisoner is a serious danger to the community.

### **Background**

- [3] The respondent is currently 55 years of age. On 8 April 2010, he pleaded guilty in the District Court at Cairns to one count of assault with intent to rape and one count of rape. The complainant and the respondent were known to each other and the respondent grabbed the complainant, who was 31 years of age, and forced her into a cane paddock where he placed his hands over her mouth. When she bit him, he choked her with the strap of her bag and forcibly inserted his penis into her vagina. When she kicked him in the stomach, he ceased any further efforts at penile penetration, but forcibly inserted three of his fingers into her vagina. The incident concluded when witnesses intervened. The respondent contended at the sentencing hearing that he was drunk at the time but otherwise accepted the matters contained in the schedule of facts.
- [4] He was sentenced to four years' imprisonment on the account of assault with intent to rape and six and a half years' imprisonment on the count of rape. There was a recommendation for parole after two and a half years and a total of 372 days of pre-sentence custody was declared as time served. His full time release date is 1 October 2015 and he will therefore have served the full term of six and a half years at the time of his release.
- [5] His only other sexual offence was indecent dealing with a child under 16 on a date unknown between 1 January 1999 and 20 July 2000. On 10 March 2003, he had pleaded guilty to that offence in circumstances where it was alleged that the 13 year old complainant was staying with her grandmother and one evening she awoke to find the respondent touching her on her genitals and buttocks outside her shorts.
- [6] When interviewed by police on 19 March 2001, he told them that he could not recall the incident as he was intoxicated.

- [7] He was sentenced to six months' imprisonment by way of an intensive correction order and whilst he initially reported as required, he breached that order by being convicted on 4 April 2003 of possessing the dangerous drug cannabis. The intensive correction order was revoked and he was imprisoned for 179 days.
- [8] Apart from the sexual offences, the respondent also has a significant and lengthy criminal history which can be categorised as follows:

<b>Dates</b>	<b>Offences</b>
6 January 1977 8 November 1977 11 August 1987	<b>Unlawful Use of a Motor Vehicle</b>
17 April 1991 28 May 1996 10 April 2003 21 April 2003 6 January 2004 3 February 2004 17 June 2005 3 January 2006 19 October 2006 1 November 2006 30 March 2007 10 April 2007 16 April 2007	<b>Offences against Public Order (Assault/Resist/Obstruct Police, Contravene Directions given under the <i>Police Powers and Responsibilities Act 2000</i>)</b>
15 December 1987 13 February 1990 14 August 1991 1 March 1994 24 November 1998 6 January 2004 17 June 2005 12 November 2009	<b>Offences of Violence (Common Assault, Assault Occasioning Bodily Harm)</b>
27 January 1998 21 April 2003 13 December 2004 17 June 2005 28 March 2007 31 July 2007 14 November 2008	<b>Breach of Bail</b>
24 September 1996 24 March 1998 21 September 1999 23 May 2000 20 February 2001	<b>Breach of Domestic Violence Order</b>

1 November 2006 11 February 2008 14 November 2008	
3 February 2004 1 November 2006 31 July 2007	<b>Breach of Suspended Sentence</b>

### **Reports from the psychiatrists**

- [9] The respondent has been examined by three psychiatrists pursuant to the Act. He was interviewed by Dr Josephine Sundin on 23 September 2014, Dr Michael Beech on 10 July 2015, and Professor Barry Nurcombe on 7 September 2015.
- [10] All three psychiatrists gave evidence at the hearing and were cross-examined in relation to the categorisation of the risk the respondent presented and the possible conditions that could be included in a supervision order should one be required.

#### *Dr Sundin's report dated 15 October 2014*

- [11] Dr Sundin's report is dated 15 October 2014. Dr Sundin noted that the respondent states that his preferred language is Torres Strait Pidgin but that his understanding of English is sufficient. He completed 48 sessions in the Sexual Offenders Program for Indigenous Males (SOPIM) between 17 April 2012 and 23 October 2012, where he was characterised as a quiet participant who presented with denial and minimisations, particularly in relation to the use of violence against females. She indicated that during the interview with her, he claimed that he had never committed a sexual offence or a violent offence of any nature, that the complainants had fabricated their allegations in a desire for compensation and that his lack of English interfered with his ability to make an effective defence. Similarly, he indicated that his charges in relation to resisting police, nuisance and assault were made up or were innocuous events which were misinterpreted by police who were prejudiced. Dr Sundin also had concerns that his history of chronic alcohol abuse and head injuries raised the possibility of an early dementing process which affected his memory.
- [12] In conclusion, Dr Sundin considered that the respondent met the DSM criteria for Anti-Social Personality Disorder and Alcohol Abuse Disorder (in remission whilst in custody). Dr Sundin conducted a number of actuarial risk assessments and concluded that although he did not meet the full diagnosis for psychopathy with a score of 23 out of 40 on the Hare PCL-R, it was an elevated score. On the Static 99-R, he had a score of 6 which placed him in the high risk of reoffending category. In relation to the VRAG, he had a score of 15 which placed him in Category 7 with a 55% risk of violent reoffending at seven years and a 64% risk at 10 years. In terms of the SVR, he had a moderate to high risk of future sexual reoffending. Dr Sundin was uncertain whether the risk which the respondent presents rises to the level of seriousness that would warrant a supervision order under the Act. She stated:

“When ultimately Mr Jacob [the respondent] is released, he is at a high risk for relapse into a pattern of alcohol abuse and that such relapse will be associated with general levels of violence and the potential for high levels of

domestic violence directed towards intimate partners. I consider that he is at moderate risk of sexual violence to non-intimate female partners. I consider his overall risk for future sexual violence is in the moderate zone. I do not consider that his participation in the Sexual Offenders Program for Indigenous Males [SOPIM] has significantly altered his risk, given his absolute denial of any offending behaviour and failure to demonstrate any empathy with regards to his victims.”

*Dr Beech's report dated 24 August 2015*

- [13] Dr Beech noted the respondent's self-report that when he drinks it is in a big binge fashion, although he does have long periods of abstinence. Dr Beech stated that the respondent denied a propensity to violence and indicated that he would be abstinent from alcohol on his release. In relation to the 2003 conviction, Dr Beech indicated that the respondent said he was blind drunk. He stated that he met a woman and went to her house, stayed the evening and left the next morning. In relation to the allegations about touching the little girl at the house, the respondent told Dr Beech that he tried to explain himself but he could not win because his English is so bad. In relation to the 2010 conviction for rape, he told Dr Beech that two women asked him for a cigarette and when he gave them one they stole his backpack. He later saw the woman who stole his backpack and followed her. She ran when he approached her and he stated that he chased her and pulled her trousers down so that she would fall over. He stated that he punched her and took his backpack. He was then accused by police of raping her. In terms of that scenario being put forward by his lawyers in court, he said that the lawyers said nothing because they wanted to make money out of him and put him in prison. He said that he did not plead guilty to the rape charge and that his lawyer and the judge colluded with that plea.
- [14] Dr Beech stated that the respondent also denied that he was intoxicated at the time and alleged that the complainant complained falsely to get compensation. In relation to his criminal history, the respondent told Dr Beech that police often tricked him into pleading guilty and that, with his limited understanding of English, he did not know the difference between guilty and not guilty. He also indicated that they had occurred a long time ago and he could not recall the details of those offences.
- [15] Dr Beech considered that he minimised his criminal history as well as down-played the significance of his convictions and that the breaches of domestic violence were due to false allegations, police interference or police trickery. In terms of his future, Dr Beech noted that the respondent was planning to return to Thursday Island and care for his mother where he would work on a cattle station or as a crayfish diver. Dr Beech considered that whilst the respondent was cooperative and engaged in the interview, he thought it was obvious that he was attempting to present a positive impression. He noted the respondent's minimisation of many features of his life and the frequent reference to his poor English skills as making him vulnerable and leading to false convictions. He also explained that his difficulties were due to scheming people such as compensation seeking women and vengeance seeking officers.
- [16] Dr Beech considered that the respondent took little responsibility for his behaviours and his difficulties. Dr Beech noted that whilst he spoke with an Aboriginal English dialect, he seemed relatively understandable and seemed to be able to understand and respond to the questions put to him. He considered that:

“There were strong themes of elevated self-esteem, irresponsibility and projection of blame. He recounted heavily misogynistic views and what I considered to be a significant hostility to woman, although with exceptions.”

- [17] Dr Beech noted that the respondent had completed the SOPIM for indigenous sex offenders. He also considered that whilst he developed a willingness to engage and had an emerging understanding of chronic factors, he presented with denial and minimisation. Dr Beech noted that the respondent had also completed the Getting Smart Moderate Intensity Substance Abuse Program in 2011 and the Ending Offending Program in 2010. Dr Beech considered that the respondent has Anti-Social Personality Disorder with significant narcissistic traits and Alcohol Use Disorder in the community. He also considered that there may have been an element of retribution in the offences for which he was convicted in 2010 and that intoxication played a role in both sexual offences. Dr Beech considered that the offences indicate the respondent’s attitude of entitlement and he agreed with Dr Sundin’s opinion that there is the possibility of sexual violence within his previous relationships.
- [18] In terms of the actuarial assessments, the respondent received a score of 4 on the Static 99-R, which places him in the moderate high risk of further sexual violence. On the Hare PCL-R, he received a score of 25 which is well below the cut off for psychopathy but high on the Australian norms and indicates significant anti-social traits. On the Risk of Sexual Violence Protocol, Dr Beech considered that the respondent met a number of the criteria. He did not consider that the respondent had any paedophilia and that, whilst the violence in the 2010 rape had an element of retribution, he did not think there was any sadism.
- [19] Dr Beech considered that the respondent’s risk of reoffending violently was high and that the risk of sexual violence was in the moderate range. He noted that his convictions for sexual offending are seven years apart and he is now 55 years of age, an age at which the risk of rape starts to decline significantly. Dr Beech considered that there is some evidence that the respondent was settling and he did not see any evidence of sexual preoccupation. He did note that there was evidence, however, in his history and at interview, of ongoing misogynistic views, hostility and resentment.
- [20] Dr Beech considered that although the risk of sexual violence was moderate, if it did occur he considered physical injury would be high. In relation to the risk of sexual reoffending, Dr Beech stated it was:

“[L]ikely to occur whilst Mr Jacob [the respondent] is intoxicated. He may feel some sense of grievance or entitlement or simply seek to have his way. The woman is likely to have been known to him. I think that he will use significant physical coercion if required. It is likely in fact to be a domestic partner. It may though be someone who he has simply seen in the street at night, and it may occur during the course of some break and enter type offence.

It is my opinion that it is unlikely that further courses in custody will act to reduce the risk. A Supervision Order would though act to decrease the likelihood of further violence. This is because I think it would act to restrict his risk of intoxication. It would put limits on his behaviour, and it would monitor his relationships and association.

Importantly, I think it would act to continue to engage him in counselling in the community which might foster some of the earlier changes noted by the SOPIM facilitators. That ongoing counselling would also act to remind him about his aspiration for abstinence. It could help him enter into programs that would facilitate that. It would ease the transition into the community.

Ultimately though I believe the risk of further violence will continue to decrease as Mr Jacob [the respondent] becomes older.”

*Professor Barry Nurcombe’s report dated 8 September 2015*

- [21] Professor Nurcombe also noted that in relation to the index offence, the respondent was adamant that he did not rape the victim. He noted his plans to return to Thursday Island and look after his mother and to return to station work, possibly in the Northern Territory. He also noted his intention to remain abstinent from alcohol.
- [22] Professor Nurcombe indicated that the respondent has Alcohol Abuse Disorder, in remission, and Anti-Social Personality Disorder. He does not consider he has a psychopathic personality and there was no evidence of paraphilia. Professor Nurcombe also described him as edgy, impulsive, irritable and easily challenged by what he considers to be disrespectful. He has little support in the community and vague plans on release. Professor Nurcombe used the risk assessments to consider the risk of offending and, like Dr Sundin noted, that the instruments may not be valid for Australian indigenous communities.
- [23] Professor Nurcombe also noted that on the psychopathy check list, the respondent was well below the cut off for psychopathy. In terms of the Static 2002R, he had a score of 7 out of 13 which indicated a moderate to high risk of sexual reoffending. On the Stable 2000, his score of 12 out of 26 indicated a high level of treatment needs. On the VASOR, his readings indicated a high risk of sexually violent offending. On the SVR 20, he noted eight factors which suggested that the risk of sexual reoffending is moderate to high. In terms of sexual violence history, Professor Nurcombe stated that the sexual violence in the respondent’s case was not chronic, that there had essentially been three charges in 36 years that had a sexual connotation and that the sexual violence has not been diverse. However, he indicated that it has escalated. He considered that both physical and psychological coercion was involved in the most recent episode of sexual violence. Professor Nurcombe also noted the minimisation and denial of sexual violence and his highly conservative and chauvinistic attitudes towards women. He considered that the respondent had attitudes that support sexual violence and has marked violence with self-awareness. He also considered that there was no indication of psychopathy or sexual deviance or mental illness.
- [24] Professor Nurcombe considered that the respondent had serious problems with alcohol and had marked violent ideation when intoxicated. In terms of the risk analysis, Professor Nurcombe considered that:
- “If Mr Jacob [the respondent] abstains from drinking alcohol, the risk of violence is low. If he reverts to binge-drinking, the greatest risk is that he will once again become involved in domestic violence motivated by the disinhibition caused by alcohol and a sense of being disrespected during a domestic dispute. Violence might alternatively involve an adult male or member of the police force with whom he has a dispute. In such a case the

psychological or physical harm to the victim is likely to be moderate. There is little chance that the violence would escalate to a serious or life-threatening level. Such violence is not imminent. The main warning sign that the risk of violence is increasing would be a reversion to drinking alcohol. Based on his history, the risk of non-sexual violence after drinking is high.

A second scenario would involve the rape of an adolescent or adult female. This is unlikely to occur unless Mr Jacob [the respondent] reverts to binge-drinking. If it does occur, the risk of psychological harm to the victim is high. However there is little chance that the sexual violence would escalate to a life-threatening level. Sexual violence of this type would not be imminent after release from prison. The main warning sign that would indicate an increase in such a risk would be reversion to drinking.

Based on history alone, the risk of sexual violence is moderate to high. However, if Mr Jacob [the respondent] is abstinent from alcohol, the risk of sexual violence is low. Mr Jacob [the respondent] has now reached an age (55 years) at which the risk of rape is greatly reduced. When I interviewed him, he had difficulty walking. It is hard to picture this aging, infirm man today being in a position to, or having the inclination to, rape an adult woman.

Mr Jacob [the respondent] denies any sexual element in the violent offence for which he is currently serving a prison sentence. It should be pointed out, however, that there is no evidence that such denial or lack of remorse predicts sexual recidivism.”

- [25] Ultimately, Professor Nurcombe questioned whether the degree of risk reaches a level that would warrant the application of the Act. However, if a supervision order was considered necessary, he recommended that such an order should be for a period of five years and indicated that the most important provision would be a complete abstinence from alcohol and illicit drugs. He considered that the alcohol or drug use could be monitored by regular breath analysis and urine testing. He noted that supervision would require the respondent to live apart from his social group. He did not consider there was any need for the respondent to be separated from children or adolescence of either sex and did not think he would benefit from the Sexual Offender Maintenance Program. He also doubted that he had benefited from SOPIM.

### **Consideration**

- [7] The real issue in this case is whether the applicant has satisfied me that the respondent is a person who is a serious danger to the community in the absence of a continuing detention or supervision order under the Act. Is the evidence before me such that I can be satisfied that there is an unacceptable risk that the respondent *will* commit a serious sexual offence if he is not either supervised or detained? As outlined above, the Act provides that a Court can only make a finding that a person is a serious danger to the community if it is satisfied to a “high degree of probability”.
- [26] In this regard, I note in particular the caution raised in the reports of the psychiatrists Professor Nurcombe and Dr Sundin that the risk assessment instruments may not be valid for Australian indigenous communities.

- [27] Counsel for the respondent argues that the applicant has not discharged the onus of satisfying the Court and relies on the views of Dr Sundin and Professor Nurcombe querying whether the respondent's offending was of sufficient seriousness to warrant an order under the Act. Dr Sundin summed up the issue in her report when she stated that "Whilst my clinical impression of Mr Jacob [the respondent] was of an arrogant individual with a fairly spectacular history of alcohol fuelled violence, I am not certain whether he rises to the level of seriousness that would warrant a supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003* [the Act]." As Dr Sundin noted, the respondent has convictions for two different types of sexual offences and the offence of indecent treatment of a child, whilst serious, was at the lower end of the spectrum and involved the groping of a child through her clothes without penetration or any violence. The later offence of rape and assault with intent to rape occurred in the context of high levels of intoxication and a property dispute.
- [28] Professor Nurcombe also stated that the sexual violence was not chronic and that "There have been three charges in 36 years that have a sexual connotation. The sexual violence has not been diverse. However it has escalated in seriousness." Ultimately, he questioned "whether the degree of risk in this case reaches a level which would warrant the application of the *Dangerous Prisoner (Sexual Offenders) Act 2003* [the Act]."
- [29] In this regard, I note in particular that the respondent's first offence of a sexual nature was in 2000. As Judge Bradley noted in sentencing the respondent for the rape and assault with intent to rape, the respondent had been in trouble with the law before "but never with respect to sexual offending."<sup>4</sup>
- [30] Judge Bradley continued:
- "However, you do have a bad criminal history that does involve a number of convictions for offences of violence, particularly, it appears, the violence on your de facto partners. In fact, over the last few years you have spent some time in prison because of those convictions."<sup>5</sup>
- [31] Indeed, some of the allegations of domestic violence in the QP9s are concerning and alarming, given they involve allegations that he hit his partner with a chair on one occasion, that he has threatened other partners with a spear and an admission that he killed the puppy of a partner who had been in conflict with him.
- [32] The respondent is a Torres Strait Islander and has lived in many indigenous communities from Broome to Cape York and other areas. He has indicated his wish to return to his family and community on Dauan Island. I note that there were a number of incidents whilst in custody including assaulting a Corrective Services Officer and assaulting fellow inmates.
- [33] I also note that the respondent had a parole eligibility date of 1 November 2011. His full time release date is 1 October 2015. It would seem that he has not been granted parole and that the issues of concern related to his unsatisfactory plans on release and his history of breaches whilst in custody. It would also seem that the respondent had a serious head injury which required a stent being placed in his right frontal lobe according to the Corrective Services Report dated 28 February 2012. It is clear that he has difficulty in

---

<sup>4</sup> *R v Jacob*, unreported, Bradley J, DC No 105 of 2003 at Cairns, 10 March 2003, p 2 ll 22-24.

<sup>5</sup> *R v Jacob*, unreported, Bradley J, DC No 105 of 2003 at Cairns, 10 March 2003, p 2 ll 24-29.

managing his emotions when affected by alcohol which has resulted in numerous assault charges.

- [34] Having considered the reports of the psychiatrists, it is clear that, on the basis of the actuarial assessments, the respondent's risk of violent sexual reoffending has been assessed as moderate. The real issue in relation to his risk of sexual reoffending is whether he remains abstinent from alcohol. The reality is that when he is released on 1 October 2015, unless he is supervised under the Act, he will not be monitored and will have little support in the community. As he was not granted parole, he has not been in the community for the last six and a half years.
- [35] I acknowledge the strength of the submission by counsel for the respondent that a Division 3 order under the Act is a significant restriction to the respondent's liberty, particularly as he will have served the full term of his imprisonment. I also accept the validity of the queries raised by Professor Nurcombe and Dr Sundin.
- [36] There are a number of factors which have caused me great concern in this case. The first factor is the respondent's very substantial history of assaults and I note there have been 14 convictions for assaults between 1978 and 2009. I note that the risk of general violence is moderate to high and, in this regard, it is concerning that despite the fact he is now 55 years of age and was in a very controlled environment whilst in custody, he committed further assaults. Whilst many of the violent offences in his criminal history were committed whilst he was affected by alcohol, there is also a history of assaults committed by him on other prisoners and indeed on a prison guard when he was not affected by alcohol.
- [37] He also has a history of breaching domestic violence orders and alarmingly he has eight convictions for breaches of domestic violence orders as well as evidence of significant violence within his households.
- [38] A further factor is the history of alcohol abuse and the assessment that he is at a high risk of relapsing into alcohol abuse. In terms of the very real likelihood he will revert to drinking, all of the psychiatrists indicated that alcohol use will increase the risk that he will commit a serious sexual offence. It would also seem clear that his participation in the sexual offending programs whilst in custody has not altered that risk. There are also concerns about the respondent's ability to monitor his emotional dysregulation. He also has a history of a frontal lobe injury.
- [39] The psychiatrists' reports referred not only to the respondent's misogynistic views but also to a significant hostility to women. Dr Beech noted strong themes of elevated self-esteem, irresponsibility and projection of blame. Dr Beech also considered that he had a "heavily misogynistic view".
- [40] Whilst the respondent does have a strong work ethic and has had a good employment history, he is considered by the psychiatrists to present with impulsivity, poor cognitive problem solving skills and negative emotionality. The prison notes indicate that he can be aggressive and abusive if he does not receive the responses he seeks. He has also been reported to be insolent when cautioned for his behaviour and his behaviour in custody at times was unacceptable.

- [41] It is concerning that the respondent's risk of general violence is high, that he is a heavy set man with a long history of violence and that Dr Beech's view that, whilst there has been some improvement in prison, "he still seems to ark up easily and I think that within the community, without the restraints of custody, he is likely to return to old patterns of behaviour." I note the view that the respondent should continue to engage in counselling in the community and that the risk of violence will decrease as he ages.
- [42] I have also considered Professor Nurcombe's evidence that, in his view, the respondent is old and infirm and would no longer be capable of rape. It must be remembered, however, that a 'serious sexual offence' is defined as any offence of a sexual nature against a child, which means that even minimal sexual contact with a child constitutes such an offence. The risk of the respondent becoming disinhibited and touching a child in a sexual way whilst affected by alcohol is indeed real.
- [43] Ultimately, given the assessment that he is a moderate risk of committing a further sexual offence and the high risk of the respondent returning to alcohol abuse together with a high risk of domestic violence within an intimate relationship, I am satisfied that the applicant has discharged the onus that there is an unacceptable risk that the respondent will commit a serious sexual offence without a supervision order.
- [44] I am therefore satisfied that the respondent should be subject to a supervision order for five years, as the risk of violence decreases after the age of 60 and the evidence of Dr Sundin was that research indicates that if a prisoner can adhere to the conditions of a supervision order for five years, the risk of further sexual offending is significantly reduced.
- [45] In terms of the necessary conditions, I am satisfied that the conditions attached will adequately address any risk. In particular, there should be a total ban on drinking alcohol or taking illicit substances.

### **Order**

- [46] Pursuant to s 13(5)(b) of the *Dangerous Prisoners (Sexual Offenders) Act 2003*, the respondent be subject to a supervision order in terms of the order in the attached Schedule for a period of five years.

**The order of the Court is that:**

1. The Court is satisfied to the requisite standard that the respondent, Raynard Smith Jacob, 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*.
2. The respondent be subject to the following conditions until 22 September 2020:

The respondent must:

**General terms:**

- (i) report to a corrective services officer at the Queensland Corrective Services Probation and Parole Office nearest to his place of residence within 24 hours 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 or residence or employment at least two business days before the change occurs;
- (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 section 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) not commit an indictable offence involving violence during the period of the order;
- (xi) not threaten to, or cause physical harm against any person, excluding acts of self-defence;

**Employment:**

- (xii) seek permission and obtain approval from a corrective services officer prior to entering into an employment agreement or engaging in volunteer work or paid or unpaid employment;
- (xiii) notify a 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;

**Residence:**

- (xiv) reside at a place within the State of Queensland as approved by a corrective services officer by way of a suitability assessment and obtain written approval prior to any change of residence;
- (xv) comply with any regulations or rules in place at the accommodation and demonstrate reasonable efforts to secure alternative, viable long term accommodation to be assessed

for suitability by Queensland Corrective Services, if such accommodation is of a temporary or contingency nature;

- (xvi) not reside at a place by way of short term accommodation including overnight stays without the permission of a corrective services officer;

**Contact with victim/s:**

- (xvii) not initiate any direct or indirect contact with a victim of his sexual offences;

**Requests for information:**

- (xviii) respond truthfully to enquiries by a corrective services officer about his activities, whereabouts and movements generally;
- (xix) submit to and discuss with a corrective services officer a schedule of his planned and proposed activities on a weekly basis or as otherwise directed;

**Associates:**

- (xx) notify the supervising corrective services officer of all personal relationships entered into by the respondent; make complete disclosure of the terms of this supervision order and the nature of his past offences to any person as nominated by a corrective services officer who may contact such persons to verify that full disclosure has occurred, if directed by a corrective services officer;

**Motor vehicles:**

- (xxi) notify a 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;

**Alcohol, illicit drugs and medication:**

- (xxii) not consume alcohol or 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 a corrective services officer;
- (xxiv) not visit premises licensed to supply or serve alcohol, without the prior written permission of a corrective services officer;

**Treatment and counselling:**

- (xxv) 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 a corrective services officer at a frequency and duration which shall be recommended by the treating intervention specialist;
- (xxvi) 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;
- (xxvii) attend any program, course, psychologist, social worker or counsellor, in a group or individual capacity, as directed by a corrective services officer in consultation with treating medical, psychiatric, psychological or other mental health practitioners where appropriate;

**Computers, telephones and other devices:**

- (xxviii) advise a corrective services officer of the make, model and phone number of any mobile phone owned, possessed or regularly utilised by you within 24 hours of connection or commencement of use and includes reporting any changes to mobile phone details.