SUPREME COURT OF QUEENSLAND

CITATION:	*Trimble v The Southern Queensland Regional Parole Board* [2015] QSC 331
PARTIES:	**MITCHELL JOHN TRIMBLE** (applicant) **v** **THE SOUTHERN QUEENSLAND REGIONAL PAROLE BOARD** (respondent)
FILE NO/S:	SC No 8329 of 2015
DIVISION:	Trial Division
PROCEEDING:	Application
ORIGINATING COURT:	Supreme Court at Brisbane
DELIVERED ON:	27 November 2015
DELIVERED AT:	Brisbane
HEARING DATE:	19 November 2015
JUDGE:	Burns J
ORDER:	**The orders of the court are that:** **1. The application is dismissed;** **2. The applicant is to pay the respondent's costs of and incidental to the application to be calculated on the standard basis.**
CATCHWORDS:	ADMINISTRATIVE LAW – JUDICIAL REVIEW – GROUNDS OF REVIEW – RELEVANT CONSIDERATIONS – where the applicant is serving terms of imprisonment – where the applicant made application to the respondent for release on parole – where the application was refused on the ground that the release of the applicant on parole at that time would pose an unacceptable risk to the community – where the applicant sought a statutory order of review of the respondent's decision pursuant to s 20 of the *Judicial Review Act* 1991 (Qld) – whether the respondent breached the rules of natural justice in relation to the making of the decision – whether the making of the decision was an improper exercise of the power conferred on the respondent by the *Corrective Services Act* 2006 (Qld) – whether the respondent failed to take relevant considerations into account in the making of its decision

Corrective Services Act 2006 (Qld), s 3(1), s 180, s 193
Judicial Review Act 1991 (Qld), s 20, s 30(1)(b), s 32(1)

Calanca v Queensland Parole Board [2013] QSC 294
Cuzack v Queensland Parole Board [2010] QSC 264
Day v Queensland Parole Board [2015] QSC 89
Laing v Southern Queensland Regional Parole Board (No 2) [2011] QSC 352
Minister for Immigration and Border Protection v WZARH [2015] HCA 40
Mott v Queensland Community Corrections Board [1995] 2 Qd R 261
Queensland Parole Board v McGrane [2014] QCA 193
Queensland Parole Board v Moore [2012] 2 Qd R 294
Queensland Parole Board v Pangilinan [2015] QCA 35
R v Arthy [2012] QCA 67
R v Craigie [2014] QCA 1
Wall v Central and Northern Queensland Regional Parole Board [2013] QSC 129
Wotton v State of Queensland (2012) 246 CLR 1

COUNSEL: The applicant appeared on his own behalf
M J Woodford for the respondent

SOLICITORS: Crown Solicitor for the respondent

[1] The applicant, Mr Trimble, is currently serving consecutive terms of imprisonment which were imposed in 2012 and 2014 for various offences. Earlier this year, he made application to the respondent Board to be released on parole. On 17 May 2015, the Board refused Mr Trimble's application. He now seeks a review of that decision pursuant to the provisions of the *Judicial Review Act* 1991 (Qld).

Background

[2] Mr Trimble is almost 21 years of age. On 21 November 2012, he pleaded guilty in the District Court to burglary and robbery with actual violence. He was aged 17 at the time of those offences, and on probation. The circumstances were that Mr Trimble and another young man broke into a house where the complainant, a person known to Mr Trimble, was residing. Mr Trimble was armed with a hammer and his companion was in possession of a crowbar. The sentencing judge remarked that Mr Trimble carried out "violent physical acts on the complainant", although it does not appear that the hammer carried by Mr Trimble was used for this purpose. On each count, Mr Trimble was sentenced to imprisonment for three years, with those terms to be served concurrently. After pre-sentence custody was taken into account, it was ordered that Mr Trimble be released on parole on 3 May 2013.

[3] Mr Trimble was paroled on the date ordered. However, on 21 June 2013 he was charged with possession of tainted property and, three days later, the Board resolved to suspend his parole. He was returned to custody on 2 August 2013 but, when the tainted property charge was dismissed by the Magistrates Court on 11 September 2013 for lack of evidence, Mr Trimble was again released on parole. That occurred on 17 September 2013.

[4] Five days later, Mr Trimble reoffended, and in a serious way. He, in the company of two others, accosted a man who was walking with his girlfriend outside a hotel at Alderley in Brisbane. Mr Trimble took hold of the man by the shirt and threatened to stab him. The man was then punched and led to a nearby automatic teller machine where he was forced to withdraw $850. Mr Trimble was subsequently charged with robbery in company with personal violence and was returned to custody on 26 September 2013.

[5] The Board indefinitely suspended Mr Trimble's parole on 8 October 2013. The following day, he was found in possession of a syringe and charged with dealing with a prohibited thing.[1] The next month, he was dealt with for two prison disciplinary breaches – on 17 November 2013, for abusing staff and kicking cell doors and, on 26 November 2013, for receiving mail which, when opened, was found to contain a prohibited drug.

[6] On 16 October 2014, Mr Trimble pleaded guilty in the District Court to the offence committed on 22 September 2013, that is, robbery in company with personal violence. The sentencing judge observed that Mr Trimble had "many entries in [his] criminal history for violence" and that a number of these offences had been committed when he was affected by drugs. He was sentenced to two years' imprisonment, cumulative on the terms of imprisonment imposed on 21 November 2012. A parole eligibility date of 10 August 2015 was fixed. His full-time release date is 13 June 2017.

The parole application

[7] Because s 180 of the *Corrective Services Act* 2006 (Qld) permits the making of an application for parole within 180 days of a prisoner's parole eligibility date,[2] Mr Trimble forwarded his application to the Board on 10 February 2015. The Board considered the application at its meeting on 15 April 2015 and, after doing so, formed the preliminary view that Mr Trimble should not be admitted to parole. The Board then resolved to give Mr Trimble notice of the "adverse factors that resulted in that preliminary opinion" so that he could make whatever further submissions he wished to make before the Board reached a final decision. To that end, a letter was forwarded to Mr Trimble on behalf of the Board on 24 April 2015 in which the Board's preliminary view, together with the reasons for it, were communicated. The violent nature of the index offences, Mr Trimble's high security classification and his outstanding treatment needs were highlighted as reasons why the Board considered the risk to the community would be "unacceptably high" if Mr Trimble was released on parole. Mr Trimble was invited to make further submissions regarding these matters, and he responded with four pages of written submissions which were received by the Board on 12 May 2015.

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1 Mr Trimble pleaded guilty to that offence in the Magistrates Court on 16 January 2014 and received a wholly suspended period of one month's imprisonment.

2 *R v Arthy* [2012] QCA 67 at [43]; *R v Craigie* [2014] QCA 1 at [14].

[8] In those submissions, Mr Trimble stated that he was "more than willing to participate in any intervention programs" for which he was assessed as suitable but that, "through no fault of [his] own", he had not been able to do so. He also stated that he was willing to undertake any such program in the community if released on parole. These statements were clearly intended by Mr Trimble to respond to the concern expressed on behalf of the Board in the 24 April letter regarding his outstanding treatment needs. The Board was, in particular, aware that Mr Trimble had been "recommended to complete the Pathways Program to address [his] chronic substance abuse".[3] This information was contained in a report which had been prepared by a panel of correctional staff and placed before the Board. In it, the panel expressed the opinion that Mr Trimble "would benefit from participation in a substance abuse program prior to his release" and that there was a pending "case conference" to assess his suitability to undertake the Pathways program.

[9] It should be added that the panel also reported that Mr Trimble's "institutional conduct" had lapsed "at times into defiance towards custodial staff", that there had been a number of "incidents/breaches" involving him in the past, that he lacked "insight into [his] offending behaviour" and that there had been "insufficient post-release planning". Elsewhere in the report, Mr Trimble's in-custody behaviour was described as "erratic". Nonetheless, a satisfactory home assessment had been carried out, all drug screening results had been acceptable and Mr Trimble's willingness to undertake rehabilitative programs was regarded as a "positive" factor in his favour.

[10] The Board met to consider Mr Trimble's application in a final way on 27 May 2015, but was not satisfied that the contents of Mr Trimble's written submissions were sufficient to satisfactorily address the concerns identified in the 24 April letter. After considering those submissions together with the other material before it, the Board decided that Mr Trimble would be an "unacceptable risk to the community on a parole order at this time" and, for that reason, that the application should be refused.

[11] Mr Trimble was advised by letter dated 1 June 2015 that his application for parole had been refused. He was also advised that the Board consented to the lodgement of a new application for parole at any time after six months had expired from the date of the decision, that is, on or after today (27 November 2015).

[12] On 12 June 2015, Mr Trimble requested a statement of reasons pursuant to s 32(1) of the *Judicial Review Act*. These were provided under the hand of the President of the Board on 6 July 2011. The statement of reasons includes these findings:

> "The Applicant is currently classified as a high security classification and is accommodated in the secure section at the Woodford Correctional Centre. The Board would be satisfied with the Applicant demonstrating a period of acceptable behaviour by progressing to a low security facility and maintaining a period of breach free custodial time. The Board is of the opinion that the successful progression to low custody will enable the Applicant to demonstrate his ability to behave in a less structured environment.
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> The Applicant was identified by the Department of Corrective Services as someone who would benefit from completing treatment programs whilst

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3 The full name of that program is the "Pathways: High Intensity Substance Abuse Program".

> incarcerated, in particular the Pathways: High Intensity Substance Abuse Program. The Board is concerned that the Applicant has outstanding treatment requirements which may assist the Applicant in his understanding of the reasons for his offending behaviour in the past and assist in developing strategies to prevent such offending recurring when released. It is not a requirement that prisoners must complete treatment programs before being eligible for release on Parole however in this case, the Board has determined it would be assisted in determining the potential risk to the community if the Applicant were to be released, by the Applicant completing those programs identified by the Department. The Board noted the Applicant is currently waitlisted to commence the Pathways: High Intensity Substance Abuse Program to address his chronic substance abuse which is directly linked to his offending behaviour.
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> The Board has further considered whether it would be possible and/or appropriate for the Applicant to complete his outstanding programs in the community. The Board has determined that in this case, considering the Applicant's application for parole as a whole, and having particular regard to the seriousness of the offences for which the Applicant is incarcerated, the Applicant would not be an appropriate candidate at this time for community based program participation."

[13] Then, after confirming the Board's consent to Mr Trimble lodging a further application for parole in six months' time, the statement of reasons concluded with this:

> "Based on the findings listed above, including the violent nature of the Applicant's convictions, his high security classification and outstanding treatment needs in relation to substance abuse, the Board considered the Applicant was an unacceptable risk to the community and decided to refuse his application for Parole."

[14] It is apparent from these reasons that the Board's decision to refuse parole was founded on three principal concerns. *First*, there was the nature of the offending underlying Mr Trimble's convictions. Both episodes of offending were serious, involved actual violence and occurred, most likely, in the context of illicit drug use. *Secondly*, the Board did not regard Mr Trimble's behaviour in custody to have been satisfactory or, at least, not consistently so. The Board signalled to Mr Trimble that he needs to demonstrate a period of acceptable behaviour such as would qualify him for progression to a low security classification followed by "a period of breach free" custody. This would, in turn, be revealing of Mr Trimble's capacity to behave in a less structured prison environment. *Thirdly*, the Board was concerned to ensure that Mr Trimble received treatment to address his chronic substance abuse problem before release on parole. The Board noted the link between Mr Trimble's drug use and his offending behaviour and indicated that it would be assisted in its assessment of risk if Mr Trimble completed the Pathways program.

The review application

[15] This application is brought pursuant to s 20 of the *Judicial Review Act*. By it, Mr Trimble says that he is aggrieved by the Board's decision because, he asserts, the Board failed to "consider the circumstances on their merits" and failed to consider "relevant

information". Otherwise, it is alleged that there has been a "denial of natural justice and procedural fairness". Mr Trimble seeks relief in the form of an order requiring the Board to "reconsider its decision according to law".[4]

[16] Subsequent to the filing of the application, the Board sought particulars. These were supplied by Mr Trimble on 6 October 2015. From them, the following complaints emerged:

(a) Although the Board recorded that Mr Trimble was waitlisted for the Pathways program, it failed to "acknowledge his inability to complete the program" to that point;

(b) The Board failed to "consider the time frames of when the [Pathways] program will be available and the length of the program in relation to [Mr Trimble's] fulltime discharge date";

(c) By refusing to accede to the application for parole, the Board has "obstructed" Mr Trimble's ability to be treated for his drug addiction, and to be otherwise rehabilitated, in the community;

(d) Mr Trimble has a "legitimate expectation" to release on parole.

[17] Mr Trimble expanded on these complaints in his written and oral submissions. He submitted that the Board failed to take into account the improvements in his behaviour and attitude since he was last dealt with for a custodial breach. He also contended that the Board overlooked the feature that he cannot earn a lower security classification until he has completed the Pathways program and that his request of the prison authorities to be allowed to undertake that program had, until only very recently, fallen on deaf ears. Lastly, Mr Trimble submitted that the Board failed to take into account the risk to the community if he is forced to serve the balance of his terms of imprisonment without having undertaken a period of supervision on parole.

[18] Although Mr Trimble's various challenges to the Board's decision were not put with reference to any particular provision of the *Judicial Review Act*, the statutory grounds potentially engaged would appear to be limited to a general claim that the Board breached the rules of natural justice in relation to the making of the decision (s 20(2)(a)) coupled with a more specific one, that is, that the making of the decision was an improper exercise of the power conferred by the enactment by which it was purported to be made (s 20(2)(e)) in that the Board failed to take relevant considerations into account (s 23(b)).

Consideration

[19] This is not a merits review of the Board's decision, and the powers conferred on the court by s 30 of the *Judicial Review Act* are not open-ended. To the contrary, the jurisdiction has been described as "strictly constrained", with it being "no part of the court's role to second-guess decisions of the Board made regularly under its charter".[5] On the other

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4 If a proper basis is established, such relief will be available under s 30(1)(b) of the *Judicial Review Act* 1991 (Qld).

5 *Wall v Central and Northern Queensland Regional Parole Board* [2013] QSC 129 at [16] per de Jersey CJ.

hand, by s 193 of the *Corrective Services Act*, the Board is vested with a broad discretion whether to grant or refuse parole. No criteria for the making of that decision are specified, but it is well-settled that the decision making power is to be exercised having regard to the subject matter, scope and purpose of Act.[6]

[20] Section 3(1) of the *Corrective Services Act* lays down the purposes of the Act. There are two; community safety and crime prevention. The same provision informs how those purposes are to be achieved, that is, through "the humane containment, supervision and rehabilitation of offenders". Thus, when deciding an application for parole under s 193 of the Act, the Board must consider "what effect a prisoner's release on parole would have on community safety and crime prevention, both at the time of his release and in the future".[7] This necessarily entails an assessment of the degree of risk involved in granting to a prisoner the privilege of completing part of his sentence in the community.[8] It also involves a consideration of the extent to which the prisoner has being rehabilitated and, in the case of a prisoner requiring treatment, the extent to which that prisoner has been treated. In some cases, the Board may be satisfied that an appropriate regime of treatment for a prisoner will be available in the community and, if so, to release that prisoner on conditions that will ensure that such treatment is undertaken.[9] In other cases, the Board may decide that community-based treatment is inappropriate, and often this will be for the reason that the Board is not persuaded that the prisoner is sufficiently progressed in his or her rehabilitation whilst in custody to make that a realistic treatment option.

[21] I turn now to the specific grounds and complaints raised by Mr Trimble under the banner of this application.

The Pathways program

[22] The Pathways program runs for 21 weeks and involves 126 hours of contact time. In the days leading up to the hearing of this application, Mr Trimble was informed by Corrective Services that he is to be moved from the Woodford Correctional Centre to the Gatton Correctional Centre so as to enable him to participate in that program. Mr Trimble nevertheless complained that he has not been informed by Corrective Services when he will be moved and that, in any event, he had sought permission from Corrective Services to participate in the Pathways program a considerable period of time ago but, despite that request, it was not acted on until after the Board refused his application.

[23] As to the first of those complaints, counsel for the Board informed the court that Mr Trimble is enrolled in the Pathways program which is due to commence on 30 November 2015. If Mr Trimble has not already been formally advised of the start date by Corrective Services, no doubt this will occur shortly.

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6 *Wotton v State of Queensland* (2012) 246 CLR 1 at [8]-[9] per French CJ, Gummow, Hayne, Crennan and Bell JJ and [84] per Kiefel J.

7 *Calanca v Queensland Parole Board* [2013] QSC 294 at [33] per M Wilson J.

8 As to which, see the observations made by McPherson JA in *Mott v Queensland Community Corrections Board* [1995] 2 Qd R 261 at 278 regarding the assessment of risk under the *Corrective Services Act* 1988 (Qld).

9 Such conditions may be imposed pursuant to s 200 of the *Corrective Services Act.* See *Queensland Parole Board v McGrane* [2014] QCA 193 and *Queensland Parole Board v Pangilinan* [2015] QCA 35.

[24] Dealing then with the second complaint, the report prepared by the panel of correctional staff for the Board was completed by 27 March 2015 and approved by the authorised delegate on 31 March 2015. This was two weeks before the Board first considered Mr Trimble's application for parole. As previously noted, the panel reported that Mr Trimble "would benefit from participation in a substance abuse program prior to his release" and that there was a pending "case conference" to assess his suitability to undertake that program. It is simply not the case that Corrective Services did nothing to advance Mr Trimble's participation in the program until after the parole application was refused.

[25] As to the assertion that Mr Trimble previously requested Corrective Services to admit him to the Pathways program, nothing was placed before the Board or this court to evidence the making of such a request. But even if such a request had been made, there could be any number of reasons why Corrective Services did not immediately act on it. A similar position obtains with respect to the assertion made by Mr Trimble that, before he can progress to a lower security classification, he needs to complete the Pathways program. Again, that assertion was unsupported by any evidence and no submissions were made to the Board to that effect. All that the Board was told was that Mr Trimble had been unable to participate in the Pathways program through no fault of his own.

[26] Significantly, Mr Trimble did not submit to the Board that his successful completion of the Pathways program was necessary to secure a reduction in his security classification, and the Board did not proceed on that understanding. Rather, as the statement of reasons disclose, the Board expected that Mr Trimble's security classification could be lowered by consistently good behaviour. On the other hand, the Board regarded completion of the Pathways program as something which might assist Mr Trimble to understand the reasons for his offending behaviour in the past and develop strategies to avoid such behaviour if released on parole. This would, in turn, assist the Board in its future assessment of the potential risk to the community if Mr Trimble is released on parole. This was, therefore, not a case where the Board relied on the applicant's high security classification to refuse parole but failed to take into account the circumstance that, due to the unavailability of a treatment program, it was impossible for the applicant to be reclassified so as to permit his transfer to a low security environment.[10] There was no evidence to establish such a circumstance, and no submission was made to the Board by Mr Trimble to that effect.

[27] There is otherwise no substance in Mr Trimble's allegations to the effect that the Board failed to "acknowledge his inability to complete the program" and failed to "consider the time frames of when the [Pathways] program will be available and the length of the program in relation to [Mr Trimble's] fulltime discharge date". It is apparent from the statement of reasons that the Board knew that Mr Trimble had not undertaken the Pathways program and that he was waitlisted to commence that program. For the reasons discussed immediately above, nothing was advanced to the Board concerning Mr Trimble's "inability to complete the program". The Board was otherwise apprised of Mr Trimble's full-time release date by the material before it, which material was listed on the statement of reasons as the material upon which the Board's findings of fact were based.

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[10] As was the case in *Cuzack v Queensland Parole Board* [2010] QSC 264, which decision was considered in *Queensland Parole Board v Moore* [2012] 2 Qd R 294 at [14] per Holmes JA.

[28] It follows that there is no substance in any of the complaints or arguments Mr Trimble advanced to the court in connection with the Pathways program.

Obstructing access to community-based treatment

[29] Mr Trimble contended that, by refusing his application, the Board "obstructed" his ability to be treated for his drug addiction, and otherwise rehabilitated, in the community. Allied to that contention was Mr Trimble's claim that he had a "legitimate expectation" to be released on parole and his general allegation that there had been denied "natural justice and procedural fairness".

[30] The "legitimate expectation" of a person affected by an administrative decision does not of itself supply a basis for determining whether procedural fairness should be accorded to that person. As Kiefel, Bell and Keane JJ observed in *Minister for Immigration and Border Protection v WZARH*:

> "Recourse to the notion of legitimate expectation is both unnecessary and unhelpful. Indeed, reference to the concept of legitimate expectation may well distract from the real question; namely, what is required in order to ensure that the decision is made fairly in the circumstances having regard to the legal framework within which the decision is to be made."[11]

[31] It is of course true that the refusal of Mr Trimble's application for parole meant that he has been prevented from pursuing his rehabilitation, including treatment for his drug addiction, in the community. This is because the Board took the view that such a course would be inappropriate at this time. Instead, the Board expected Mr Trimble to continue his rehabilitation in custody and, as a significant component of that, to undertake and complete the Pathways program. The Board was perfectly entitled to reach such a view on the material before it.

[32] The general allegation that the Board's decision involved a breach of the rules of natural justice has nothing to commend it. The Board gave Mr Trimble notice of the material to which it had regard when forming its preliminary view that his application for parole should be declined and, more than that, express notice of the reasons why it had formed that preliminary view. Mr Trimble was invited to make submissions regarding those matters, and did so.

Improved behaviour?

[33] Mr Trimble argued that the Board failed to take into account the improvement in his attitude and behaviour since his last breach of prison discipline. This argument fails on the facts. In addition to the material submitted by Mr Trimble, the contents of the panel report dated 31 March 2015 – containing as it does information regarding Mr Trimble's conduct in custody – was expressly taken into account by the Board. Although it is correct to submit, as Mr Trimble did, that he has not been dealt with for a disciplinary breach since 2013, the panel reported that Mr Trimble's "institutional conduct" had lapsed "at

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11 [2015] HCA 40 at [30].

times into defiance towards custodial staff", that he lacked "insight into [his] offending behaviour" and that his behaviour had at times been "erratic". Furthermore, Mr Trimble did not make any specific submission to the Board on this point and, given the concerns reported by the panel, it would have been difficult for the Board to conclude that his attitude and behaviour had in fact improved since 2013. Indeed, given that the Board had in its statement of reasons called on Mr Trimble to demonstrate in the future a period of acceptable behaviour, it may be inferred that the Board was not persuaded that Mr Trimble had to any significant degree done so to that point in time.

Risk to the community if not released on parole

[34] Lastly, Mr Trimble argued that the Board failed to take into account the risk to the community if he is forced to serve the balance of his terms of imprisonment without having undertaken a period of supervision on parole. This was an argument which Mr Trimble advanced in written submissions to this court, but not to the Board. To support his argument, he made reference to what must be taken to be the Court of Appeal in *Queensland Parole Board v Moore*.[12]

[35] In *Moore,* the applicant for parole submitted to the Board that the risk to the community would be greater if he was not granted parole but was instead required to remain in custody until his full-time discharge date. That submission was based on an opinion which had been expressed by a psychiatrist (Dr Kar) in a report provided to the Board to the effect that a gradual reintegration into the community would be preferable to release at the full-time discharge date which would, of course, not be accompanied by any regime of supervision. The primary judge concluded that the Board failed to properly take this consideration into account and that conclusion was affirmed on appeal. After noting the objects set forth in s 3(1) of the *Corrective Services Act*, Holmes JA (with whom McMurdo P and Mullins J agreed) observed:

> "Considering the function of parole in that context, it cannot be accepted that the Board is not obliged, in considering risk, to look beyond the time at which it is dealing with a parole application. If community safety is to be achieved by supervision and rehabilitation, it is necessary to consider an applicant's likely progress over the potential parole period, rather than confining considerations to the present or the immediate future. Dr Kar had advised that it would be preferable for the respondent to be gradually re-integrated back into the community; the Parole Board Assessment Report had made the point that the benefits of supervision would diminish as the length of the prospective parole period was reduced. It was accordingly, both relevant and necessary for the Board to take into account and weigh the relative risks of discharging the respondent at or towards the end of his sentence and of giving him earlier supervised release on parole. It was perfectly open to the Board to decide that the time was not yet right to undertake the latter exercise, but the respondent had squarely raised the issue in his submissions; it was relevant; and the mere allusion to Dr Kar's report did not amount to taking it into account." [13]

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12 Ibid.

13 *Moore*, at [17] per Holmes JA.

[36] Unlike that case, here, there was no evidence before the Board to support the proposition that gradual reintegration into the community via a parole order was preferable to Mr Trimble's release at his full-time discharge date, and no submission to that effect was made to the Board. Nor was there any evidence to support the proposition that the risk to the community might be greater if parole was not granted and Mr Trimble remained in custody until his full-time discharge date and, again, no submission to that effect was made to the Board. Thus, and just as Bond J concluded in a similar factual context in *Day v Queensland Parole Board*,[14] the circumstances which led to the finding of reviewable error in *Moore* were not present in this case. In any event, the Board did not decide that Mr Trimble must serve the whole of his terms of imprisonment; rather, the Board left the door open to Mr Trimble to make another application for parole which, if successful, will result in his release well prior to his full-time discharge date. As already noted, Mr Trimble is entitled to make such an application from today.

Conclusion

[37] For the above reasons, I am not persuaded that any ground of review has been made out and, accordingly, the application must be dismissed.

Costs

[38] In oral submissions, Mr Trimble informed the court that he could not satisfy a costs order if one is made. Even if that be so, it hardly provides a sufficient reason not to make a costs order in favour of the Board.[15] It should not be thought that applications such as this can be brought without consequence, even if that consequence is limited to a costs order in favour of the successful party which is not immediately capable of being enforced. There is no other reason why costs should not follow the event.

[39] It shall therefore be ordered that Mr Trimble pay the Board's costs of and incidental to this application to be calculated on the standard basis.

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14 [2015] QSC 89 at [17].

15 *Laing v Southern Queensland Regional Parole Board (No 2)* [2011] QSC 352.