

# SUPREME COURT OF QUEENSLAND

CITATION: *Attorney-General for the State of Queensland v Houlihan*  
[2016] QSC 12

PARTIES: ATTORNEY-GENERAL FOR THE STATE OF  
QUEENSLAND  
(applicant)  
v  
CLINT FRANCIS HOULIHAN  
(respondent)

FILE NO/S: BS10269 of 2015

DIVISION: Trial Division

PROCEEDING: Application for a Division 3 order

DELIVERED ON: 1 February 2016 (ex tempore)

DELIVERED AT: Brisbane

HEARING DATE: 1 February 2016

JUDGE: Mullins J

ORDER: **As per the draft order initialled by Mullins J and placed  
with the file**

CATCHWORDS: CRIMINAL LAW – SENTENCE – SENTENCING  
ORDERS – ORDERS AND DECLARATIONS RELATING  
TO SERIOUS OR VIOLENT OFFENDERS OR  
DANGEROUS SEXUAL OFFENDERS – GENERALLY –  
where respondent serving 10 years’ imprisonment for  
offences including violent sexual offences against two sex  
workers – where the respondent has a history of alcohol and  
illicit substance abuse – where applicant seeks orders  
pursuant to section 13 of *Dangerous Prisoners (Sexual  
Offenders) Act 2003 (Qld)* – whether the respondent should  
be released on a supervision order – where supervision order  
made for a period of five years

*Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld), s  
13*

COUNSEL: K Philipson for the applicant  
L M Dollar for the respondent

SOLICITORS: G R Cooper, Crown Solicitor for the applicant  
Legal Aid Queensland for the respondent

HER HONOUR: This is an application by the applicant Attorney--General for a division 3 pursuant to section 13 of the Dangerous Prisoners (Sexual Offenders) Act 2003. For the purpose of the hearing, reports have been obtained from psychiatrists: Doctors Nurcombe, Harden and Aboud. Ms Philipson of counsel on behalf of the applicant acknowledges that the evidence supports the release of Mr Houlihan on a supervision order for the period of five years. Mr Houlihan has instructed Mr Dollar of counsel and his solicitor from Legal Aid Queensland that he does not oppose any terms of the supervision order proposed by the applicant.

10 I need to recite some of the history of the matter and refer to the psychiatric evidence before I make the order. Even though the parties are not in dispute about what the outcome of this application should be, under the legislation I have to bring an independent assessment to bear on all the evidence before I make any findings in relation to the application. I can say the extensive written submissions on behalf of both the applicant and Mr Houlihan, together with the psychiatric reports, have made the task easier than it may have otherwise been.

Mr Houlihan is a 43 year old man. He has spent 16 of the last 18 years in custody. The current period of imprisonment arises from sentences imposed in the District Court on 27 August 2008. Of relevance are the offences that involved sexual offending. In short compass, Mr Houlihan committed two episodes of violent sexual offending against sex workers on different occasions: one on 14 October 2005, and the other, 7 February 2006. The effective term of imprisonment that he received was 10 years, which will expire on 6 February 2016. Mr Houlihan is a qualified painter. He has a reasonable work history when he has not been in custody. But he has had a long-term issue with abuse of alcohol and illicit substances, including methylamphetamine.

Professor Nurcombe assessed Mr Houlihan's risk of sexually violent re-offending as moderate or less if released from prison and Mr Houlihan maintained abstinence from alcohol and illicit drugs. If he reverted to drinking alcohol and using illicit drugs, his risk of sexual violent re-offending increased from moderate to high. Professor Nurcombe recommended ongoing substance use intervention and that the supervision order be structured to foster abstinence from all intoxicating substances.

Dr Harden diagnosed Mr Houlihan as meeting the diagnostic criteria for alcohol abuse in remission, marijuana abuse in remission and amphetamine abuse in remission, and that he also meets criteria for antisocial personality disorder with significant psychopathic features. There was not enough information to make a diagnosis of the paraphilia of sexual sadism, although Dr Harden expressed the opinion that, in the 2005 and 2006 offences, there was a suggestion on Mr Houlihan's part of desire to harm or humiliate the victims rather than just opportunistic sexual gratification.

It is relevant to the management of the risk of re-offending in the future that Dr Harden identifies that any future sexual offending is likely to occur while intoxicated, and the most likely victims would be adult female sex workers. Dr

Harden is of the opinion that with a high level of community supervision and abstinence from substance abuse, coupled with pro-social community integration and therapeutic intervention that is associated with a supervision order, that Mr Houlihan's risk of sexual re-offence would be reduced significantly, most likely into the low to moderate range. Dr Harden recommends that Mr Houlihan be subject to a supervision order in the community for a period of at least five years.

Dr Aboud makes a similar assessment and also agrees that, in the context of appropriate supervision, monitoring and support, Mr Houlihan's overall risk would be below moderate in respect of sexual re-offending.

Arrangements have been made for transitional housing for Mr Houlihan and also for him to engage in counselling with a psychologist in the community and also to undertake counselling to address a gambling problem.

Mr Houlihan himself recognises that, at his age, he is finally starting to mature and has indicated that, through the approach he has taken to this application, that he is willing to engage in the regime to assist not only in the adequate protection of the community from sexual re-offending on his part, but also in fostering his own rehabilitation.

The evidence of Doctors Nurcombe, Harden and Aboud is acceptable and cogent and satisfies me to the high degree of probability that is required under the Act that Mr Houlihan's moderate to high risk of sexual re-offending, unless appropriately supervised, is an unacceptable risk as contemplated by section 13, subsection (2) of the Act.

I am satisfied that appropriate conditions can be formulated for a supervision order that will address the need to ensure the adequate protection of the community and that a supervision order for a period of five years, rather than a continuing detention order, should be made. I make an order in terms of the draft initialled by me and placed with the file.

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