

# SUPREME COURT OF QUEENSLAND

CITATION: *Attorney-General for the State of Queensland v Doyle* [2016] QSC 30

PARTIES: **ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND**  
(applicant)  
v  
**JOHN ALEXANDER DOYLE**  
(respondent)

FILE NO/S: SC No. 2454 of 2010

DIVISION: Trial Division

PROCEEDING: Application

ORIGINATING COURT: Supreme Court at Brisbane

DELIVERED ON: 2 March 2016

DELIVERED AT: Brisbane

HEARING DATE: 15 February 2016

JUDGE: Boddice J

ORDER: **The Court shall hear the parties as to the form of orders.**

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 applied for orders pursuant to section 22 of *Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld)*, for orders rescinding or alternatively amending a supervision order as a consequence of the alleged contravention of that order by the respondent – where the respondent had a number of sexual paraphilias, including paedophilia – where the risk of re-offending remains high – where there was no program or course the respondent could undertake in custody that would further reduce his risk of serious sexual offending in the future – where the contraventions were not contested by the respondent – where the respondent had a history of breaching supervisions orders – whether the respondent discharged his onus of satisfying the Court that, despite the contravention, the adequate protection of the community could be ensured by his return to the community subject to a supervision order

*Dangerous Prisoners Sexual Offenders Act 2003 (Qld), s 22*

COUNSEL: M Maloney for the applicant  
T A Ryan for the respondent

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

- [1] The Attorney-General for the State of Queensland makes application, pursuant to s 22 of the *Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld)* (the ‘Act’), for orders rescinding or alternatively amending a supervision order as a consequence of the alleged contravention of that order by the respondent, John Alexander Doyle.
- [2] The respondent does not contest he has contravened the requirements of that supervision order. At issue is whether the respondent has discharged his onus of satisfying the Court that, despite the contravention, the adequate protection of the community can be ensured by his return to the community subject to a supervision order.

**Background**

- [3] The respondent was born on 27 October 1960. He is fifty five years old. He was made the subject of a supervision order pursuant to the Act on 25 June 2010, following a finding he was a serious danger to the community absent such an order. The order was to remain in effect for fifteen years.
- [4] On 19 July 2011, the respondent was returned to custody after breaching a requirement of the supervision order that he not knowingly associate or have contact with anyone convicted of a sexual offence against a child. Notwithstanding that contravention having been established, the respondent was released from custody on 30 January 2012, subject to an amended supervision order.
- [5] In November 2012, the respondent was again returned to custody after breaching three requirements of the amended supervision order. Those requirements were that he not collect or retain material containing images of children and that he dispose of such material if directed to do so; that he not commit an indictable offence; and that he not access pornographic images of children. The contraventions were established, but the respondent was again released from custody subject to an amended supervision order made on 3 November 2014.
- [6] Following his arrest as a consequence of a warrant issued under the Act, the respondent was returned to custody on 4 August 2015. That warrant was issued following alleged contraventions of the amended supervision order, namely, failures to comply with directions dated 5 November 2014 and 5 January 2015. The first direction required the respondent not possess or use any other mobile phone or device connected to the internet, without prior written approval. The second related to the respondent not having contact with other sexual offenders. The respondent has remained in custody since his arrest for the alleged contraventions.

**Previous sexual offences**

- [7] On 20 February 1987, the respondent was sentenced to an effective head sentence of ten years imprisonment with a recommendation for parole after serving four years for offences of entering a dwelling with intent and then breaking out, deprivation of liberty, indecent assault, breaking and entering a dwelling house with intent at night, indecent dealing with a boy under the age of seventeen years, entering a dwelling house with intent in the night and then breaking out, indecent dealing with a boy under the age of fourteen years, entering a dwelling house with intent at night, and stealing. The alleged offences involved seven male complainants aged between ten and twenty years. The respondent broke into the homes of these young males before binding and sexually assaulting them.
- [8] The respondent was released on parole on 24 July 1992. That parole order was to expire on 19 February 1997. On 17 June 1999, the respondent was sentenced to an effective head sentence of eight years imprisonment for multiple offences of supplying a dangerous drug to a minor, deprivation of liberty, burglary, permitting a place to be used in the commission of a crime, stealing as a servant, possessing dangerous drugs, common assault, false declarations, fraud and breach of parole. These offences were committed between June 1996 and January 1997 whilst the respondent was on parole.
- [9] The facts in relation to the supply offences were that on frequent occasions, the respondent supplied cannabis to young teenage boys aged between fourteen and sixteen years. The respondent kept a diary of this conduct indicating he fantasised about tying up the boys. The facts in relation to the deprivation of liberty offence was that the respondent, after befriending a fifteen year old boy, provided the boy with cannabis before binding him and engaging in sexual conduct without his consent. There was other alleged sexual conduct involving that child and other young males.

**Alleged contraventions**

- [10] It is alleged the respondent falsely advised those supervising him that he had lost his mobile phone on 18 March 2015. Subsequent information from the Queensland Police Service indicated the missing telephone had been re-registered to a new sim card. That telephone number was later contacted by authorities. It is alleged the respondent was the holder of that telephone. Investigations revealed that telephone was used to make contact with at least one person who had previously been convicted of a sexual offence. It is alleged the respondent did not have permission to contact that person.
- [11] The respondent was arrested for allegedly breaching the contravention order by having in his possession at least two mobile telephone numbers in contravention of the requirements of his supervision order and directions made on 5 November 2014 and 5 January 2015. On 5 August 2015, the respondent was convicted of an offence of contravention of the amended supervision order. He was sentenced to six months imprisonment with a parole release date fixed at 5 October 2015.

### **Psychological reports**

- [12] The respondent has been receiving treatment from Dr Madsen on an ongoing basis. In Dr Madsen's opinion, the respondent has, in recent times, developed insight into his manipulative and dishonest behaviour and his resistance to rules and supervision. However, Dr Madsen noted the respondent had, in the past, presented as motivated to change his behaviour, but was subsequently shown to engage in a superficial and insincere manner.
- [13] Dr Madsen opined the respondent was engaging in therapy in an effort to develop strategies to assist him to control his impulses, so that he may better cope and be more compliant with the terms of any supervision order.

### **Psychiatric reports**

- [14] The respondent was interviewed by Dr Beech on 6 November 2015. Dr Beech noted the respondent's past deviant sexual behaviour and non-compliance with supervision orders. In Dr Beech's opinion, the latter conduct was related to an anti-authoritarian stance as a product of a highly prejudicial childhood involving physical, emotional and sexual abuse by parents and caregivers. The respondent's breaches of the supervision order reflected an oppositional trait.
- [15] Dr Beech noted that although the respondent had engaged in psychological counselling, there was ongoing manipulative and deceptive behaviour. The respondent's attitude towards supervision was generally resentful of being obliged to comply with conditions. The respondent was also antagonistic towards case managers.
- [16] Dr Beech opined the respondent had a number of sexual paraphilias, including paedophilia. The respondent also had a non-specific personality disorder with clear anti-social personality traits. His idleness, passive aggressive nature and duplicity were notable, although Dr Beech did not consider they reached the realm of psychopathy.
- [17] In Dr Beech's opinion, the respondent, without a supervision order, represented a high risk of re-offending in a sexual way. Without supervision and monitoring, it was likely his mood would generally deteriorate with the consequence he would lapse back into substance abuse, ruminate on past events and resentments and engage in sexual fantasies he would eventually act upon. His likely victims were young males, with his conduct involving psychological coercion, manipulation and predatory behaviour. There was a significant risk that behaviour would include restraint and sexually violent assaults.
- [18] Dr Beech opined a supervision order would reduce the risk of future serious sexual offending. Such an order reduced the risk of a return to substance abuse, limited the respondent's capacity to have contact with minors, and ensured continued engagement and psychological treatment, as well as restricting his ability to establish contact and maintain relationships with minors and other sexual offenders. A supervision order also restricted the respondent's ability to act out fantasies due to overall monitoring and curfew restraints.

- [19] Dr Beech accepted a supervision order relied upon the respondent's ongoing co-operation. Dr Beech also accepted supervising officers would need to be vigilant and sceptical of the honesty of the respondent's ongoing behaviour. In that sense, the efficacy of a supervision order was limited in many respects.
- [20] Dr Beech confirmed these opinions in evidence. Dr Beech did not consider there were any programs or further treatment that could be undertaken in custody which would minimise the risk of non-compliance in the future with a supervision order. The benefit of the supervision order was the level of monitoring it provided for the respondent's ongoing behaviour. Any supervision order should contain the same conditions and restrictions as the earlier orders.
- [21] In expressing this opinion, Dr Beech noted there were some encouraging signs of the development of a level of insight. Dr Beech also noted it was significant the current alleged contraventions involved contact with a known sexual offender only. There was no suggestion the respondent had attempted to contact minors.
- [22] Dr Harden interviewed the respondent on 23 October 2015. Dr Harden noted previous diagnoses of alcohol abuse and dependence, marijuana abuse and anti-social personality disorder. Whilst the respondent continued to meet the criteria for anti-social personality disorder, he had abstained from substance abuse whilst on the supervision order.
- [23] Dr Harden opined the respondent met the diagnostic criteria for paraphilias of paedophilia, fetishes and sexual sadism, although none of those adequately described the respondent's quite fixated deviant arousal that was specific in nature. Dr Harden noted the respondent's previous non-compliance with the terms of the supervision orders, including the respondent's past resistance to the restrictions of a supervision order and his manipulative behaviour.
- [24] In Dr Harden's opinion, the respondent continued to present as a high risk of future sexual offending. That risk would be decreased to moderate by the supervision and monitoring associated with a supervision order. There was, however, likely to be ongoing difficulties with compliance with the terms of any supervision order.
- [25] Dr Harden confirmed those opinions in evidence. He also confirmed there were no ongoing programs or therapy available in custody which would likely improve the prospects of compliance with the terms of the supervision order. The development of insight was a positive feature, although it must be considered in the context of his past dishonest and manipulative behaviour.

## **Discussion**

### *A contravention?*

- [26] A consideration of the material placed before this Court by the applicant clearly establishes that the respondent did not comply with reasonable directions given to him by

authorised officers. That non-compliance constitutes a contravention of the amended supervision order.

*Has the respondent discharged his onus?*

- [27] The concerning aspect about those contraventions is that they occurred in the context of ongoing manipulative and dishonest behaviour by the respondent. This manipulative and dishonest behaviour stems from aspects of the respondent's personality, including oppositional traits. In short, the respondent has to date exhibited an attitude that he will not comply with conditions he does not agree with, notwithstanding the terms of the supervision order. That attitude is persistent and consistent, resulting in three contravention proceedings since the commencement of the supervision order.
- [28] Such ongoing behaviour raises serious concerns as to whether the respondent would comply with the conditions of a supervision order should he again be released from custody. A likelihood that he would continue to contravene conditions he does not agree with raises concerns as to the effectiveness of a supervision order in providing adequate protection to the community from the serious danger presented by the respondent due to the risk the respondent will commit a serious sexual offence in the future.
- [29] Both Dr Beech and Dr Harden opine the risk of re-offending remains high, and, if anything, is a little higher now than at the time of commencement of the supervision order. However, the presence of strict conditions as part of a supervision order does provide a protective mechanism in respect of that risk. The protective mechanism arises by reason of the effects of close supervision and monitoring. This limits the prospect that the respondent would revert to substance abuse or form inappropriate relationships thereby increasing the risk he would act on fantasies particularly in relation to young men.
- [30] There are other factors that provide some further protective mechanisms, although their worth is limited in the context of ongoing manipulative and deceptive behaviour. First, the development of a level of insight into his behaviour in the context of a good therapeutic relationship with Dr Madsen. Second, the fact that the most recent contraventions did not involve contact with young men or access to images. Third, there is no suggestion the respondent has returned to abusing alcohol or other illicit substances which is a significant relevant risk factor.
- [31] Whilst those factors may suggest reasons to be hopeful of a better compliance with the terms of a supervision order in the future, they must be balanced by the clear recognition that the respondent has expressed similar motivation in the past only to engage in deceptive behaviour in breach of the requirements of the supervision order.
- [32] Ultimately, whilst I accept the opinions of Dr Beech and Dr Harden that there are no programs or courses the respondent could practically undertake in custody which would further reduce his risk of serious sexual offending in the future, I am not satisfied there is a reasonable prospect of compliance by the respondent with the terms of a supervision order in the future. The respondent has shown scant regard for the necessity to comply with the conditions of the supervision order. His most recent contraventions involved

particularly deceptive behaviour. There can be no confidence the respondent will comply in the future, having regard to his ongoing manipulative and deceptive behaviour.

- [33] The respondent has not established the adequate protection of the public can be ensured by the return of the respondent into the community subject to a supervision order, on the same terms as the previous order or any other order.

### **Conclusions**

- [34] The applicant has established the respondent contravened conditions of the amended supervision order.
- [35] The respondent has not discharged his onus of satisfying the Court that, despite the contravention, the adequate protection of the community can be assured by his return to the community subject to a supervision order.
- [36] I shall hear the parties as to the form of orders.