

SUPREME COURT OF QUEENSLAND

CITATION: *A-G for the State of Qld v Crawford* [2016] QSC 255

PARTIES: **ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND**
(applicant)
v
BRADLEY PAUL CRAWFORD
(respondent)

FILE NO/S: No 7740 of 2014

DIVISION: Trial Division

PROCEEDING: Application

ORIGINATING COURT: Supreme Court at Brisbane

DELIVERED ON: 7 November 2016

DELIVERED AT: Brisbane

HEARING DATE: 7 November 2016

JUDGE: Ann Lyons J

ORDER: **1. Pursuant to s 22(2) of the *Dangerous Prisoner (Sexual Offenders) Act 2003*, the respondent be released from custody and continue to be subject to the supervision order made by Justice P. Lyons on 2 February 2015, with the following amendment:**

(a) Omit the words in requirement (30) and insert the following underlined words to read:

(30) not establish or maintain any supervised or unsupervised contact, including undertaking care of any male children under 16 years of age, except with the prior written approval of a Corrective Services officer. The respondent is required to fully disclose the terms of the order and nature of the offences to the guardians and caregivers of the children before any such contact can take place; Queensland Corrective Services may disclose information pertaining to the respondent to guardians or caregivers and external agencies (i.e. the Department of Communities, Child Safety and Disability Services) in the interests of ensuring the safety of the children.

CATCHWORDS: CRIMINAL LAW – SENTENCE – SENTENCING ORDERS – ORDERS AND DECLARATIONS RELATING TO SERIOUS OR VIOLENT SEXUAL OFFENDERS OR DANGEROUS SEXUAL OFFENDERS – DANGEROUS SEXUAL OFFENDER – GENERALLY – where the respondent contravened a condition of a Supervision Order to abstain from the consumption of alcohol – where the applicant applies for relief pursuant to s 22 of the *Dangerous Prisoners (Sexual Offenders) Act* 2003 (Qld) - whether the Supervision Order should be rescinded and a continuing detention order made or whether the adequate protection of the community can be insured with an amendment to existing Supervision Order

COUNSEL: M Maloney for the applicant
J Lodziac for the respondent

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

This application

- [1] On 2 February 2015 P Lyons J ordered that the respondent be released subject to a Supervision Order pursuant to the provision of the *Dangerous Prisoners (Sexual Offenders) Act* 2003 (Qld) (the Act). That order contains 40 requirements and remains in force until 15 February 2025. Condition 22 requires that he “abstain from the consumption of alcohol and illicit drugs for the duration of this Order.”
- [2] On 25 May 2016 the respondent was required to submit to a random breath test and returned a positive reading for alcohol with a blood alcohol concentration level of 0.022%. He subsequently made admissions to the consumption of a large quantity of vodka on 24 May 2015.
- [3] Pursuant to an application filed on 26 May 2016, the Attorney General applies under s 22 of the (the Act for orders that:
 - (a) the supervision order made on 2 February 2015 be rescinded and the respondent be detained in custody for an indefinite period for care, control or treatment; or
 - (b) pursuant to s 22(7) of the Act the supervision order be amended, such that condition 30 be amended to prohibit the respondent from having any contact with male children except with the prior written approval of a Corrective Services Officer. That application was filed by leave on 7 November 2016.
- [4] On 27 May 2016 the respondent was brought before the Supreme Court pursuant to a warrant issued under s 20 of the Act and Orders were made that he be detained in custody pending the final decision on the contravention proceedings. He has been in custody since that date.

Background

The respondent's history

- [5] The respondent is currently 39 years of age and has a number of convictions for sexual offences. He was convicted of the following offences:

1996

- Indecent dealing with a child under 12
- Indecent dealing with a child under 16 (five charges)
- Exposing a child to an indecent video
- Exposing a child under 16 to an indecent video (two charges)
- Unlawful assault

2005

- Indecent treatment of a child under 16 (five charges)
- Indecent treatment of a child under 16 (film)
- Administered drug for the purpose of a sexual act

2012

- Indecent treatment of a child under 12 (two charges)

- [6] The respondent was examined by psychiatrists Drs Michael Beech and Andrew Aboud for the purposes of the 2015 hearing and they have also provided further Reports for the purposes of this application. Dr Beech's Reports are dated 7 April 2016, 18 September 2016 and 11 October 2016. Dr Aboud's Reports are dated 7 April 2016 and 11 October 2016.

- [7] It is clear that both psychiatrists have identified that the respondent is a paedophile and he also has a long history, commencing in childhood of behavioural problems and learning difficulties.

Dr Beech's Reports

- [8] Dr Beech in his Reports notes that the respondent was diagnosed with Attention Deficit Disorder as a child. Significantly at the age of 11 he was sexually abused by a Council worker who had befriended him and provided him with alcohol. As Dr Beech opines "This led to a precocious attraction to young males and as a young adolescent, he engaged in same sex sexual activity".¹ Dr Beech's opinion is as follows:²

¹ Dr Beech's report, 7 April 2016 p 2.

² Dr Beech's report, 7 April 2016, p 7.

“He is a recidivist sex offender. He has Paedophilia and there are three sentencing dates for offences against male children. They have been pre or post-pubescent children that he has met in public places or through befriending their parents. He has groomed them and offered inducement. There has been evidence of psychological coercion, and on at least one occasion, a threat of violence. He was convicted on one of the sentencing dates for assault. He has Borderline Intelligence and Personality Disorder with a tendency to a negativistic and avoidant outlook. In the past, he has harboured attitudes that minimise and condone offending, and he has sought to rationalise his behaviours. It was thought that during his sexual offender treatment programs, he had made limited gains with regard to his distorted beliefs and his insight.”

[9] Dr Beech continued:³

“In the past, his offending has been driven by his identification with children, the use of sex for coping and his deviant fantasies. When stressed, these fantasies are likely to become more problematic, and he is likely to become sexually preoccupied. It is in the course of stress, aided probably by substance use, that he is most vulnerable to offending. Likely victims will be male minors that he knows, and whom he has groomed and befriended.”

[10] Dr Beech noted that since the respondent was released on a supervision order in February 2015 he has generally complied with the order. In particular he has complied with the requirement in relation to a curfew and restrictions on his movement. Dr Beech also considers that he has also not intentionally engaged with children or their families and that he has also attended for all his appointments and treatment. He also noted that the respondent has struggled to find employment and also has difficulties with day to day activities, particularly finances, budgeting and socialising.

[11] Dr Beech also considers he has a lot of social anxiety and limited social support. Against a background of rising stressors the respondent purchased a bottle of vodka and drank it in breach of the conditions of his release. He was tested the following day and he tested positive for alcohol. The respondent estimated he had consumed about half the bottle and admits that he was “pretty tanked”. He had not consumed alcohol before that incident.

[12] The respondent has been on the antidepressant Lovan whilst in the community that had been commenced under the supervision of the psychiatrist, Dr Hogan. In this regard Dr Beech noted that in February 2016 Dr Hogan considered that the respondent displayed features of low grade depression with irritability, surliness and some neuro vegetative features. He also prescribed anti-libidinal medication in order to reduce his sexual urges. Dr Beech was of the view that the respondent is opposed to using anti-testosterone medications, but is agreeable to taking an SSRI which might reduce sexual drive and has indicated to Dr Hogan that this has occurred.

[13] I note Dr Beech’s conclusion in his 18 September 2016 report:⁴

³ Ibid.

⁴ Dr Beech’s report, 18 September 2016, p 10.

“In my opinion over time he has become increasingly stressed and he has struggled to cope with financial difficulties, limited social avenues, and the restrictions on visits to his father whose health worries him. Despite antidepressant medication and counselling, these difficulties overwhelmed him and in a state of emotional collapse he resorted to an alcohol binge. This was promptly detected and led to his arrest and return to custody.

He is now remorseful and he seems to regret his behaviour. He has some insight into the difficulties that he faced and the strategies that he used. He is open to ongoing treatment, and he says that he will continue to abide by the Supervision Order requirements.”

- [14] Dr Beech considered that a supervision order with the same conditions as before would significantly reduce the risk of re-offending. He noted that his offending generally has been through his ability to groom children he meets so that he can take them to his residence or to other settings. He considers therefore that a supervision order acts to reduce his access to victims and it monitors his emotional state and provides treatment avenues for him. Dr Beech also considered that a supervision order monitors and detects early lapses into things such as substance abuse.
- [15] Dr Beech agrees with treating psychologist Dr Boyce that one of the foci of treatment should be mood and cognitive behavioural therapy together with antidepressant medication. Dr Beech also considered that he has received appropriate treatment from Dr Boyce and that as he has few social supports, his contact with his father should be increased and facilitated, as should the assistance he receives from Dr Rosevear.

Dr Aboud’s opinion

- [16] The respondent was also interviewed by Dr Andrew Aboud. In his report dated 7 April 2016, Dr Aboud endorsed the diagnosis of “Paedophilia exclusive type, sexually attracted to males” and his long history of sexual offending dating back some 20 years. He considers that his established pattern of offending involves targeting pre-pubescent or adolescent boys, befriending them or their families, grooming them, and progressing to sexual talk and escalation to sexual behaviour. He considers that he attempts to coerce and disinhibit victims with offers of alcohol or drugs.
- [17] Dr Aboud noted that when he had assessed him previously, he considered his risk of reoffending sexually to be between moderate and high, but below moderate and potentially manageable in the context of ongoing sex offender maintenance therapy and robust supervision in the community.

What Order should be made?

- [18] This application involves a two part process. First there must be a determination as to whether the respondent has breached the Supervision Order and then if the Court determines there has been a breach, a discretion arises as to whether or not to rescind or amend the Supervision Order. I turn first to the question as to whether there has been a breach of the current Supervision Order.

Has the respondent breached the requirements of the Supervision Order?

- [19] Condition 20 of the 2 February 2015 Order required that the respondent abstain from the consumption of alcohol. The respondent admitted on 25 May 2016 that he had consumed alcohol. The respondent through his Counsel has also formally accepted that he has contravened Condition 22 of the Supervisions Order.
- [20] Having considered the material before me and taking into account the admissions from the respondent that he had consumed a large quantity of vodka on the evening of 24 May 2016, I am satisfied on the balance of probabilities that he has breached the requirements of Condition 22 of the Supervision Order dated 2 February 2015.
- [21] Section 22 of the Act then provides that the onus is on the respondent to satisfy the Court that the adequate protection of the community can, despite the contravention be ensured by a supervision order as follows.

“22 Court may make further order

- (1) The following subsections apply if the court is satisfied, on the balance of probabilities, that the released prisoner is likely to contravene, is contravening, or has contravened, a requirement of the supervision order or interim supervision order (each the existing order).
- (2) Unless the released prisoner satisfies the court, on the balance of probabilities, that the adequate protection of the community can, despite the contravention or likely contravention of the existing order, be ensured by the existing order as amended under subsection (7), the court must— (a) if the existing order is a supervision order, rescind it and make a continuing detention order; or (b) if the existing order is an interim supervision order, rescind it and make an order that the released prisoner be detained in custody for the period stated in the order.
- (3) For the purpose of deciding whether to make a continuing detention order as mentioned in subsection (2)(a), the court may do any or all of the following—
 - (a) act on any evidence before it or that was before the court when the existing order was made;
 - (b) make any order necessary to enable evidence of a kind mentioned in section 13(4) to be brought before it, including, for example, an order—
 - (i) in the nature of a risk assessment order, subject to the restriction under section 8(2); or
 - (ii) for the revision of a report about the released prisoner produced under section 8A;
 - (c) consider any further report or revised report in the nature of a report of a type mentioned in section 8A.
- (4) To remove any doubt, it is declared that the court need not make an order in the nature of a risk assessment order if the court is satisfied

that the evidence otherwise available under subsection (3) is sufficient to make a decision under subsection (2)(a).

- (5) If the court makes an order in the nature of a risk assessment order, the psychiatrist or each psychiatrist examining the released prisoner must prepare a report about the released prisoner and, for that purpose, section 11 applies.
- (6) For applying section 11 to the preparation of the report—
 - (a) section 11(2) applies with the necessary changes; and
 - (b) section 11(3) only applies to the extent that a report or information mentioned in the subsection has not previously been given to the psychiatrist.
- (7) If the released prisoner satisfies the court, on the balance of probabilities, that the adequate protection of the community can, despite the contravention or likely contravention of the existing order, be ensured by a supervision order or interim supervision order, the court—
 - (a) must amend the existing order to include all of the requirements under section 16(1) if the order does not already include all of those requirements; and
 - (b) may otherwise amend the existing order in a way the court considers appropriate—
 - (i) to ensure adequate protection of the community; or
 - (ii) for the prisoner’s rehabilitation or care or treatment.
- (8) The existing order may not be amended under subsection (7)(b) so as to remove any requirements mentioned in section 16(1).”

Has the respondent satisfied the Court that the Supervision Order should be continued?

- [22] The onus is on the respondent to satisfy the Court on the balance of probabilities that the adequate protection of the community can, despite the contravention or likely contravention of the existing order, be ensured by a supervision order.
- [23] I am satisfied that the respondent has satisfied the onus on him on the balance of probabilities. The evidence of the psychiatrists was that the respondent had done quite well on the supervision order and had not re-offended sexually whilst on the Order. He was being well supervised within the community and the relapse into drinking alcohol occurred during a period of stress and was quickly detected. Both psychiatrists consider that the respondent can continue to be appropriately managed in the community.
- [24] On the basis of that evidence I am satisfied that the adequate protection of the community can, despite the contravention, be ensured by the amendment of the supervision order.

Should the Supervision Order be amended?

[25] The applicant has made an application to amend the Supervision Order dated 2 February 2015.

[26] Section 19 of the Act provides that the Court may, on application amend the requirements of a Supervision Order as follows:

“(1) The court may, on application, amend the requirements of a supervision order or interim supervision order if the court is satisfied that—

(a) the released prisoner is not able to comply with the requirements of the order because of a change in the released prisoner’s circumstances; or

(b) an amendment of the requirements is necessary or desirable for any other reason.

(2) The court may amend the requirements if it is satisfied that—

(a) the requirements, as amended, are sufficient to ensure adequate protection of the community; and

(b) it is reasonable to make the amendment in all the circumstances.

(3) If the court amends the requirements on an application made by the chief executive, the court must also amend the supervision order or interim supervision order to include all of the requirements under section 16(1) if the order does not already include all of those requirements.

(4) To the extent the supervision order or interim supervision order includes a requirement mentioned in section 16(1), the order cannot be amended under this section in relation to the requirement.

[27] It is clear that given the respondent’s diagnosis of paedophilia and his history of offending against children over the last 20 years, an important focus of the February 2015 hearing was the question as to whether or not the respondent’s risk of reoffending sexually could be managed by the requirements of a supervision order. I have been provided with a copy of the Transcript of the 2 February 2015 hearing and there is no doubt that a major issue at that hearing related to the exact terms of the Supervision Order particularly condition 30, which related to the respondent’s possible contact with children.

[28] Requirement 30 provided that the respondent:

“not establish or maintain any supervised or unsupervised contact, including undertaking care of any children under 16 years of age (other than contact with children of family members), except with the prior written approval of a Corrective Services officer. The respondent is required to fully disclose the terms of the order and nature of the offences to the guardians and caregivers of the children before any such contact can take place; Queensland Corrective Services may disclose information pertaining to the respondent to guardians or caregivers and external agencies (i.e. the

Department of Communities, Child Safety and Disability Services) in the interests of ensuring the safety of the children”.

- [29] Since the making of the supervision order on 2 February 2015, Queensland Corrective Services (QCS) have identified a difficulty in administering this requirement of the supervision order. The requirement was drafted to exclude contact with family members on the basis of information at the time that the children of the respondent’s family members were all female. As this is outside of his victim group and it was considered that adult family members would be a protective factor for the female children, the requirement was included in its current form. Subsequent to the supervision order being made, QCS have been informed that the respondent has a nephew whom he has sought to have contact with.⁵
- [30] The requirement as it is presently worded impedes the ability of QCS to regulate the respondent’s contact with his nephew. As well as affording QCS greater ability to manage the respondent’s contact with male children and therefore their ability to minimise victim access, it would also provide some clarity to the parties and ensure that QCS is not placed in a position where they are restricted in their management of the respondent by the terms of the order.
- [31] Accordingly, it is proposed that Condition 30 be amended to prohibit the respondent from having any contact with male children except with the prior written approval of a Corrective Services officer.
- [32] Dr Beech was asked to provide an opinion in relation to the amendment of Condition 30 in his 7 April 2016 Report and advised:⁶

“Mr Crawford seems to be doing reasonably well. However, he has been vulnerable to stress in the past and circumstances might change. He starts to fantasize about young males, and thinks that those fantasies can be directed to young males with whom he has contact. In the presence of restrictions around his contact with minors, it is possible that his thoughts could turn to the nephew that he is not close to. When he is stressed, it is likely that his self-control, insight, and ability to think correctly, would be impaired. He has shown a propensity to rationalise his offending behaviour, and under duress or stress, he could return to these regressive thoughts.

In my opinion, if everything is taken into account, there should be a condition that allows some control over Mr Crawford's contact with his nephew.

It would be important for the nephew and the nephew's parents or guardians to be aware of Mr Crawford’s offending. It would be important for the boy to understand about boundaries, and to be educated in this capacity to avoid risk and to report concerning contact. I think that it would be reasonable for Mr Crawford to have supervised contact with his nephew, within family settings, if the supervisors are informed and capable. I do not think it would be suitable for him to have unsupervised contact.”

⁵ See affidavit of Andrew Wilson sworn 22 February 2016.

⁶ Dr Beech’s report, 7 April 2016, p 8.

- [33] Dr Aboud noted that there is a difficulty with the current Condition 30 in that the requirement was drafted to exclude contact with family members on the basis of information at the time that the children of Mr Crawford's family members were all female. Subsequent to the supervision order being made, QCS have been informed that the respondent has a nephew with whom he has sought to have contact.
- [34] Dr Aboud considers that the requirement of Condition 30 as it is presently worded impedes Corrective Services' ability to regulate Mr Crawford's contact with his nephew. He proposes that Condition 30 should be amended to prohibit Mr Crawford having any contact with male children except with the written prior approval of a Corrective Services officer.
- [35] In this regard Dr Aboud considers that whilst the respondent has not escalated towards reoffending, his risk of sexual offending is a long-standing problem and it is prudent therefore "to ensure that Mr Crawford does not have any supervised or unsupervised contact with any male, who is under the age of 16, without having to first gain written approval from a Corrective Services officer. I thus support the proposed amendment to the relevant requirement of the supervision order".⁷
- [36] The psychiatrists both support the amendment of the existing Condition 30.
- [37] The respondent does not oppose the amendment to the Supervision Order in the terms sought.
- [38] I am therefore satisfied that whilst it is appropriate that Condition 30 be amended to ensure the adequate protection of the community no other amendments are required.
- [39] There will be orders in terms of the draft initialled by me and placed with the file.

⁷ Dr Aboud's report, 7 April 2016, p 4.