

SUPREME COURT OF QUEENSLAND

CITATION: *A-G for the State of Qld v Gaske* [2016] QSC 259

PARTIES: **ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND**
(applicant)
v
DARREL BRENDAN GASKE
(respondent)

FILE NO/S: BS7074 of 2016

DIVISION: Trial Division

PROCEEDING: Application

ORIGINATING COURT: Supreme Court at Brisbane

DELIVERED ON: 14 November 2016

DELIVERED AT: Brisbane

HEARING DATE: 7, 14 November 2016

JUDGE: Ann Lyons J

ORDER: **The Court being satisfied to the requisite standard that the respondent, Darrel Brendan Gaske, 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 (Qld)* orders that:**

- 1. The respondent be subject to the conditions outlined in the Supervision Order, as attached in Schedule 1 to these reasons, until 16 November 2026.**

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 applicant seeks an order pursuant to Division 3 of the *Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld)* that pursuant to s 13(5)(a) of the Act the respondent be detained in custody for an indefinite term of care, control or treatment or alternatively pursuant to s 13(5)(b) of the Act that the respondent is released from custody subject to a Supervision 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 13(5)(a),
s 13(5)(b)

COUNSEL: B H P Mumford for the applicant
C Reid for the respondent

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

The Current application

- [1] The respondent is currently aged 51 and has previously served a number of sentences for sexual offending. On 29 April 2014 he was sentenced in the District Court to a head sentence of three and a half years imprisonment for six counts of indecent dealing with a child under 12, one count of possessing child exploitation material and two counts of failing to comply with reporting requirements under the *Child Protection Act 1999* (Qld). Those offences occurred eight months after his release for offences which had occurred in 2010.
- [2] The respondent's full time release date for the 2014 offences is 16 November 2016.
- [3] The applicant Attorney-General for the State of Queensland now seeks orders pursuant to division 3 of the *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld):
 - (a) pursuant to s 13(5)(a) of the Act, the respondent be detained in custody for an indefinite term for care, control or treatment;

In the alternative,

- (b) pursuant to s 13(5)(b) of the Act, he be released from custody subject to a supervision order.

History of the offences

- [4] That respondent's offending commenced in 2000. On 18 May 2000 he was sentenced to three years' probation for one count of stealing and 11 offences of possessing a child abuse computer game. The respondent had stolen children's underwear over a period of years from clotheslines of others and told police that, when watching the child pornography, he masturbated, ejaculating onto the stolen underwear.
- [5] On 2 March 2010, the respondent pleaded guilty in the District Court at Brisbane to three counts of indecent dealing: the first offence occurring between August 2001 and October 2002, the other two offences were committed between June 2008 and October 2008.
- [6] In the 2001 – 2002 offence the female complainant was aged four or five years old and was the respondent's neighbour. The respondent had touched her vagina with his finger before kissing her on the vagina, bringing his mouth into contact with her vagina.

- [7] The complainant in the 2008 offences was a girl aged between 12 and 13 years old, who lived near the respondent. He would pick her up from school in his car and he committed both the offences in the car. On the first occasion by pinching the complainant on her nipple and on the second occasion by pinching her on her buttock.
- [8] He was sentenced to two years imprisonment, with parole eligibility on 2 November 2010, a period of eight months.
- [9] On 29 April 2014 the respondent pleaded guilty and was sentenced in the District Court at Brisbane for the following offences:
- (a) six counts of indecent dealing with a child under 12;
 - (b) one count of possessing child exploitation material; and
 - (c) two summary offences of failing to comply with a reporting condition under the *Child Protection (Offender Reporting) Act 2004* (Qld).
- [10] The respondent and the father of the complainant worked together. The respondent and the complainant child were sitting on the same chair watching TV in the presence of the child's father. The respondent rubbed the child's vagina, over her clothing, for between two and five seconds. She subsequently complained to her mother. Police executed a search warrant at the respondent's residence and found a laptop and USBs. The respondent admitted that he had been using the laptop to download child exploitation material. A total of 140 category 1 images (naked children, no sexual activity) were found on the laptop.
- [11] The respondent admitted to police that he had been downloading child exploitation material. His purpose for downloading images was sexual gratification and masturbation and he intended on keeping them. He told police he has an interest in females aged between three and 12 years of age. He would type the phrase "naked little girls" into Google and search and that would take him to a particular website. He had spent most of the afternoon the day prior looking for those images as well. He was aware that it was an offence to download them, but he had a theory that it was not pornography because it did not involve children involved in sex. He was charged at the conclusion of the interview.
- [12] The remaining offences were committed while he was on bail. He befriended the parents of the eight year old complainant and took her and her 15 year old brother fishing and on other activities unaccompanied which breached his Child Offender Reporting obligations.
- [13] The indecent dealing offences against the eight year old complainant entailed:
- (a) Removing her clothes and hiding them;
 - (b) Taking a video of the child when she was naked;
 - (c) Taking a photograph of the child when she was naked;
 - (d) On two occasions, pulling her shirt over her head.

- [14] The respondent was sentenced to three and a half years imprisonment on the offences referred to in paragraph 10 above, with lesser concurrent terms for the other offences. A total of 347 days, between 18 May 2013 and 29 April 2014, was declared as time already served under the sentence. Whilst he was eligible for parole on 18 February 2015 he has not been released on parole and will serve his full sentence.

The current application

- [15] Three psychiatrists, Dr Josephine Sundin, Dr Michael Beech and Dr Andrew Aboud have provided reports in relation to the respondent with respect to the current application.

Dr Josephine Sundin

- [16] Dr Sundin attended the Wolston Correctional Centre on 7 August 2015, but the respondent was unwilling to be interviewed by her. Dr Sundin prepared a report dated 10 August 2015, based on material provided from the files.

- [17] Her report states:¹

“I consider that Mr Gaske meets the DSM-IV-TR criteria for:

- Paedophilia sexually attracted to females, not limited to incest, non-exclusive type.
- Fetishism involving female children's undergarments.
- Borderline Personality Disorder

...

In Mr Gaske's case, he has a history dating back to 1999 suggestive of persistent sexual fantasies involving pre-pubescent female children with a particular fascination with pre-pubescent female genitals. While he has denied these fantasies to others, there is a history of him having masturbated to visual images of immature female genitalia for at least six years, pursued a child pornography game which exposed female genitals within the game, collected visual imagery of female child genitals and has then over time progressed to touching females in the form of pinching nipples, pinching bottoms, touching a child's vagina and licking a child's vagina.

The fetishism to which I refer is his acknowledged six-year pattern of stealing a specific type of girl's underwear which was pink and lacy and which was used as part of a masturbatory fantasy and ritual whilst viewing child exploitation material.

Whilst there was also a strongly voyeuristic component to Mr Gaske's most recent set of offences in that he engaged in the behaviour of disrobing and observing an undressed underage girl, there is not sufficient evidence to show that he had then acted on the sexual urges and indeed the child was aware that she was being observed rather than the usual unsuspecting aspect of voyeuristic behaviour.

¹ Dr Sundin's report, 10 August 2015, p 22-23.

Mr Gaske's Sexual Paraphilias appear to occur in the context of a Borderline Personality Disorder. There is a lengthy history to suggest that he has had an unstable pattern of interpersonal relationships, a pattern of impulsivity with regard to decision making, fears regarding perceived or real abandonment, struggles with a chronic sense of internal emptiness and alienation from others, recurrent suicidal behaviour and threats, affective instability with intense episodic dysphoria and anxiety and some evidence of inappropriate display of anger or difficulties in controlling his temper. He has self-harmed through various overdose attempts and has sought to prevent abandonment through threats of self-harm.”

[18] The respondent scored 5 on the Static 99R, placing him in the category of moderate to high risk of reoffending. His score on the Stable-2000 as completed by Queensland Corrective Services staff also places him in the moderate category of sexual offending. Dr Sundin recommended that he participate in the High Intensity Sexual Offenders program. She opined that he represents a high risk for future sexual recidivism and considered that he represents an unacceptable risk to the community. Whilst she noted that there had been no violence or penetrative sexual offending against his underage victims, there has been a progression in the seriousness of his offending from viewing of child exploitation material to touching and kissing the genitals of a very young female.

[19] Her report continued:²

“Mr Gaske's capacity to foster the trust of parents suggests that he is a person who would be easily able to gain access to potential victims in the future.

He has a pattern of avoidant coping and this is combined with his minimisation of the seriousness of his offending.

Ultimately, after he has completed the HISOP I would recommend that he then be referred for ongoing counselling to a consultant psychiatrist or clinical/forensic psychologist to further address the underlying paraphilic cognitions and drives. When and if he is released into the community, he is a person whom I consider would need to be closely supervised by means of a curfew, GPS monitoring of exclusion zones and requirements to reveal his offending history to workmates, associates, neighbours and anybody with whom he forms an ongoing connection.

Whilst I do not have any particular history to suggest illicit drug abuse, I would recommend that any ultimate supervision order include an alcohol abstinence requirement for at least the first two to three years of his period in the community given his past pattern of binge drinking and consequent affective instability and impulsive acting out.

Future victims are likely to be underage prepubescent females for whom the emotional harm of Mr Gaske's behaviour would undoubtedly be significant.”

[20] Dr Sundin was provided with a copy of the HISOP Exit Report from 2012 in January 2016. In Dr Sundin's opinion the respondent's overall risk of reoffending sexually had

² Ibid, p 23.

been modified from high to moderate-high. She remained of the view that he represents an unacceptable unmodified risk to the community, and if he is to be released into the community he should be under a supervision order which required a curfew, GPS monitoring of exclusion zones. He should also be required to reveal his offending history to workmates, associates, neighbours and anybody with whom he forms an ongoing connection.

Dr Michael Beech

- [21] The respondent was interviewed by Dr Beech on 16 September 2016 and his report is dated 12 October 2016. Dr Beech also considers that the respondent has the paraphilia, Paedophilia. He stated:³

“It is an attraction to prepubescent females generally, although the age range probably extends to peri-pubescent girls. He has though been able to develop and maintain adult heterosexual relationships. His interest in children's underwear reflects a Fetish. I am uncertain to what extent his wearing the underwear represents Transvestism. He describes a longstanding interest in fires and fire setting, which may reflect Pyromania.”

- [22] Dr Beech also noted his avoidant personality traits which he considered reflected an immature personality disorder as follows:⁴

“Although he has been able to form adult relationships, he seems to have struggled with them, and instead he has entertained a fantasy that revolves around seeking intimacy with female children. He has a number of unmet psychological and emotional needs, and I believe that he has, when stressed and isolated and lonely, become sexually preoccupied. He has used sexual activity as a means to cope with these unpleasant emotional experiences, and when he is feeling lonely bored and isolated, he resorts to child pornography, deviant fantasies, and predatory paedophile activity.

Importantly, his sexual offending has occurred despite convictions and incarceration. It has occurred while he has been on probation and on bail. The last tranche of offending occurred soon after his release from prison, and soon after completing a high intensity sexual offending program. Instead of learning from that program, and using insights and strategies from it, he seems to have almost immediately placed himself in high risk situations from which he sought to groom children and their families.

He has completed a community program, a high intensity program, and recently a maintenance program. The exit report from the last program does not provide much comfort that Mr Gaske has reduced his risk of reoffending. At interview, I think he describes unrealistic and insightless plans for his release, and these are plans that seem almost designed to place him again in situations he will become isolated bored and lonely. Worryingly, he not only has continuing deviant sexual fantasies around children, he actually continues

³ Dr Beech's report, 12 October 2016, p 17.

⁴ Ibid, p 18.

to masturbate to memories and images of the young girl he indecently dealt with prior to his return to custody. It is my opinion that not only is this insightful, it probably simply maintains the paedophile attraction in circumstances where the hope should have been that they would lessen. These sexual fantasies, and the paraphilia, are ongoing treatment needs that in my opinion should be addressed if the risk of reoffending is to be reduced.”

[23] Dr Beech also obtained a STATIC-99R score of five which placed him in the category of moderate-high risk of reoffending but considered that the score underestimates his risk. He noted the following risk factors:

- chronicity of sexual offending
- psychological coercion
- problems with self-awareness
- problems with stress or coping
- problems resulting from child abuse (possible)
- sexual deviance
- suicidal ideation (past)
- problems with intimate relationships
- problems with non-intimate relationships
- nonsexual criminality
- problems with planning
- problems with supervision.

[24] Dr Beech also considered that although the recent offending involved more actual offences, the nature of the offending has not escalated and that there was no indication of physical coercion or violence. Dr Beech continued:⁵

“Substance use has not played a role. He has in the past displayed restless impulsive behaviours, but there is nothing that indicates that this has continued to any significant degree. He is not psychopathic. He has now entered into middle age. He has been able to sustain employment, and he has been able to form intimate relationships.

It is my opinion that the risk of further offending if Mr Gaske is released into the community would be high. Notably, he has quickly reoffended following his last release, and those offences involved child pornography, grooming behaviour, and two victims. Despite having completed a high intensity program, he has not appeared to have taken any heed of plans or strategies, and instead he has placed himself almost immediately in a high risk situation, and offended over a period of time. He continues to entertain and facilitate deviant sexual fantasies, and this is an ongoing unmet treatment need. His plans for release are unrealistic.

In my opinion, the risk is that on release Mr Gaske will again find himself lonely, bored, and isolated. He will have continued to fantasise about young girls, and he will use this to meet his needs for intimacy. He will return to the use of child pornography or pornography. At some point he will come into contact with a young girl, and his fantasies will enlarge to incorporate her. He

⁵ Ibid, pp 19-20.

will befriend her family and over time he will groom the child. The offending will involve contact offences such as touching, groping, kissing, and some probable oral offences. It is unlikely, I believe, to escalate to penetration although that is a risk. The child, and her family, are likely to suffer psychological effects.

I am uncertain to what degree a supervision order will reduce the risk. On the one hand, a supervision order should act to curtail Mr Gaske's access to potential victims. On the other hand, the last offending occurred while under ANCOR reporting conditions. Supervision and monitoring should be able to detect predatory behaviour in the early stages, but Mr Gaske has a strong urge for sexual contact with young girls, and he continues to fantasise about them. A supervision order would likely involve further psychological treatment, but Mr Gaske does not seem to have benefited from this in the past. In my opinion the risk would be reduced with a supervision order, but it would still remain in the moderate to moderately high range” (emphasis added).

- [25] I note in particular Dr Beech’s recommendation that the risk could be further reduced by addressing the deviant sexual fantasies and urges which could be managed through individual psychological counselling which specifically targeted the paraphilia. Dr Beech also recommended that medical treatment be investigated for its potential role particularly anti-libidinal medication.
- [26] Dr Beech also considered that it would also be helpful to canvass with the program supervisors whether there is any benefit in the respondent repeating a high-intensity sexual offender program.

Dr Aboud’s Report dated 19 October 2016

- [27] Dr Aboud considers that Mr Gaske meets the criteria for mixed personality disorder, with prominent antisocial as well as borderline traits. He also considers he suffers from paedophilia, non-exclusive type, sexually attracted to females and also meets the diagnosis of fetishism, with the object being female undergarments.
- [28] Dr Aboud noted in particular that the respondent uses sexual preoccupation as a means of coping with his negative states caused by psychosocial stressors. He also considers:⁶
- “He has opportunistically groomed victims and embraced high risk situations, even after participating and completing intensive sexual offender group treatment programs. He even told a sentencing judge that he believed he needed medical treatment for his sexual problems, as opposed to purely psychological treatment. He has a tendency to minimise his offending, and to provide superficial responses. He has various distorted cognitions that serve as defence mechanisms.”
- [29] Dr Aboud also considers that the respondent is devoid of social supports as most of his family do not wish to have contact with him and that his future plans involve living in a remote area of central Queensland where he is far away from stress and the

⁶ Dr Aboud’s report p 16

temptation of potential victims. Dr Aboud noted that in the past the respondent had offended when on bail and had also failed to comply with reporting conditions.

- [30] Dr Aboud also completed a number of risk assessments in relation to the respondent and in the Static-99R, considered he was a moderate-high risk of reoffending. On the Risk Matrix 2000/S he was a high risk of reoffending. In terms of the psychopathy checklist he had a score of 19 out of 40 which is a moderate score and well below the cut off for a diagnosis of psychopathy. In relation to the Risk Matrix 2000/V which was a risk factor in relation to violent recidivism he was in the medium risk of reoffending. On the HCR-20 he achieved a score of moderate with Dr Aboud noting that:⁷

“His future risk of instability post release requires attention and pre-release planning is indicated and particular attention should be placed on the potential for destabilisers and contextual factors which might destabilise him in the future.”

- [31] He looked at factors such as relationship difficulties, loneliness, negative affective states, sexual preoccupation and using sex to manage stressors and contact with female victims as particular factors which might destabilise him.
- [32] On the RSVP, which looked future sexual violence risk, Dr Aboud considered that should the respondent reoffend sexually it would take the form of opportunistic or planned sexual behaviour with a female child. The victim could be as young as 4 and up to 14 or 15. He considered that the main driver of the risk is likely to be that of contact, especially if unsupervised with a potential victim, and that contact will lead to preoccupation and fantasy and attempts to increase access. This relates to his underlying sexually deviant drive.⁸
- [33] Dr Aboud considered that the respondent is afflicted with a range of vulnerability factors associated with future offending. He considers the respondent to be antisocial, impulsive and sexually deviant with a strong paedophile drive. He considered that he tends to become sexually preoccupied when stressed and has a deep seated emotional congruence with children and enjoys their company and interests. He noted that he has developed infatuations on female children with whom he has had close contact and he has used grooming behaviours for both children and parents to further that contact. Dr Aboud stated that:⁹

“He appears to have used sexual behaviour as a means with which to cope with emotional difficulties and stress, both in the context of consensual sexual relationship with adult female partners, and also in the context of paraphilic urge in respect of masturbatory behaviour associated with a fetishistic interest in female underwear (including that of children) and child pornography and fantasy regarding female children with whom he has become familiar”.

- [34] Dr Aboud states that the respondent had participated in the High Intensity Sexual Offenders Program in prison and a sexual offender treatment program in the community some years earlier. He also was aware that he had “reoffended subsequent

⁷ Dr Aboud’s report p 17.

⁸ Dr Aboud’s report, 19 October 2016, p 18.

⁹ Ibid.

to engaging in this program, and receiving favourable assessment of his gains in the Completion Report.”¹⁰

[35] Overall Dr Aboud concluded:

“Taking into consideration the various actuarial and dynamic assessments of future violence and sexual violence risk that have been applied, it is my view that Mr Gaske’s current overall risk would be moderate to high in respect of sexual reoffending and low in respect to violent offending. If he was released into the community without any supervision, monitoring or support, I would be concerned that he would be vulnerable to encountering higher risk situations. Such higher risk situations would be associated with his experiences of psychosocial problems (such as intimate and non-intimate relationship difficulties, loneliness, interpersonal conflict, financial hardship) which cause negative affect or his contact with female children living in his vicinity. In my opinion, the supervision and monitoring and supports available under the provisions of a supervision order would reduce his risk of sexual reoffending to below moderate and approaching low. Thus, if [he] was released subject to a supervision order, I would consider the risk to be manageable.”

[36] Dr Aboud stated that if he was to be released, the following considerations should be taken into account:

1. Careful release planning;
2. Consideration of further participation in a sexual offenders maintenance program in the community;
3. Engagement with a psychologist (to address sexual deviance, problem solving, maladaptive coping, avoidant coping, intimacy deficits, emotional congruence with children);
4. Assessment by a private psychiatrist, with a strong recommendation of consideration of medication treatment to reduce obsessive sexual thinking (high dose antidepressant medication) and deviant sexual drive (antilibidinal hormonal medication);
5. Support to develop a social support network;
6. Support to find useful employment.

[37] Dr Aboud also stated it would be important to ensure that he had appropriate accommodation, electronic monitoring, curfews, no access to public places or public transport at times when there is a likelihood of the presence of young girls, that is school children. He considers that the period should be for 10 years.¹¹

Is the Respondent a serious danger to the Community in the absence of a Division 3 Order?

[38] Section 13(2) of the Act provides that a prisoner is a serious danger to the community if there is an unacceptable risk that the prisoner will commit a “serious sexual offence”

¹⁰ Ibid, p 19.

[1] ¹¹ Dr Aboud’s report p 19

which is defined in the Act as an offence of a sexual nature against a child or which involves violence.

- [39] Section 13(4) outlines the matters the Court must consider in determining whether the respondent is a serious danger to the community. There is no doubt that all the Reporting Psychiatrists consider that the respondent is a moderate to high or high risk of reoffending sexually in the future.
- [40] I have read all three reports and am satisfied to the requisite standard that the Respondent is a serious danger to the Community in the absence of a Division 3 Order pursuant to the Act. He has committed sexual offences against children in the past and the psychiatrists consider that he meets the criteria for paedophilia.
- [41] I am satisfied that the respondent should be subject to a Division 3 Order. The real question is whether he can be appropriately managed in the community by being subject to a Supervision Order, or should he be detained in custody for care, treatment or control?
- [42] Drs Beech and Aboud both consider that the respondent can be managed in the community if he is subject to strict conditions and if he consents to the use of anti-libidinal hormonal medication. The question then becomes: should the respondent be released subject to the conditions contained in the Draft Supervision Order in those terms?

Should the respondent be released subject to a Supervision Order with specific requirements regarding anti-libidinal treatment?

- [43] I note Dr Beech's concern that the respondent has offended in the past whilst under reporting conditions from Child Safety and accordingly any supervision order would need to contain strict conditions.
- [44] When the matter came on for hearing on 7 November 2016 a draft Supervision Order was tendered, which indicated that the respondent had consented to taking anti libidinal medication such as Androcur. On that basis both psychiatrists considered that the respondent could be appropriately managed in the community if he was taking such medication. Drs Beech and Aboud both gave evidence about the significance of the use of such medication and the effect it had on reducing the sex drive.
- [45] Dr Beech gave evidence about the medications which could be used as follows; about lowing terms:¹²

“Can you tell the court what medical treatment you had in mind when you referred to that?---Antiandrogen medication, which is to reduce libido, to reduce testosterone.

Okay. Is there a particular medication that – an oral medication, I should say, that has such an effect?---There are. There's cyproterone, which is Androcur, but there are also newer medications that could be used. I would rather that it be something designed to combat androgens, so an antiandrogen medication like cyproterone, but

¹² T1-5-6, L20-25.

there are anti-luteinising medication, anti-hormonal treatments, which could also do that, which might be better. The distinction is something which might simply reduce libido, like serotonergic medication. I don't think that would be enough. But something which reduces androgens, I think, would be appropriate.

And then by serotonergic medication, you're referring to antidepressants - - -?---Anti – yeah, SSRIs.

- - - that have an SSRI effect?---Yes.

For the record, serotonin is specific reuptake inhibiting?---That's right.

Right. Thank you. All right. In the circumstances of this particular case, in your opinion, could the risk be managed without antiandrogen treatment?---It could be managed, but I don't know that it would be reduced as much as you would normally see in someone like Mr Gaske. The reason for that is, in most cases, someone's got a sexual deviance, paedophilia, and they've undergone treatment such as a high intensity program. And from that they've got plans – realistic plans about how they're going to manage risk. They've also recognised that their deviant thoughts need to be addressed, and they've taken some kind of step, internally, to reduce that fantasy. My concern here is that Mr Gaske has done the high intensity sexual offender program, he appeared to get a reasonable report from that, identified risk factors and strategies to manage that, but as soon as he was released he, in fact, went out and seems to have gone against all strategies and placed himself in a high risk area. So I think a sexual offender program's had limited utility. He has a very high sex drive and a very high deviant sex drive. I think he is sexually preoccupied, and the evidence for that is he continues in prison to fantasise about his deviant sexual urges. And I think that he uses that to cope with stress. He now has a relapse – he has a release plan which I think is unrealistic, because on the one hand he identifies that loneliness, isolation, rejection, boredom are risk factors, but his plan is, in fact, to place himself in an isolated area, which I think would also provide some attempt to evade scrutiny. So I think that what you're left with in the absence of medical treatment is a supervision order which simply acts to reduce the access to victims. Now, that would, I think, reduce risk, but in other cases on a supervision order you have some idea that the person's actually going to work with you on a supervision order, and they've got – they've made their own attempts at counselling, working on strategies, and they've got a plan. But I think for Mr Gaske, a supervision order in the absence of medication is simply just monitoring him and keeping him away from children.

Would the antiandrogen therapy act in a positive way to reduce the respondent's very high deviant sex drive?---It would. It reduces sex drive. It would also selectively, I think, reduce the deviant sexual thoughts that he had. It would allow, then, individual psychological treatment to have more effect, because he wouldn't be so sexually aroused or sexually preoccupied. So he would be able to focus more on specific psychological treatment.

The individual psychological treatment, would that also assist in managing the risk?---It would, I think, because the group programs that he's done, the

maintenance program and the high intensity program, they focus on a number of areas of risk. But the biggest – one of the biggest risks he has is this ongoing deviant sexual fantasy, and I think that needs to be specifically addressed in psychological treatment”.

- [46] Drs Beech also referred in his evidence to the side effects of the medication which includes weight gain, a possible increase in cholesterol and osteoporosis. He stated that the medication interfered with metabolic rate and thereby could predispose a person to cardiovascular problems. He considered that those side effects could be managed by other medications and that 10 years was an appropriate time frame for the length of the order. Whilst he acknowledged the importance of pre-release planning he considered that such planning could appropriately occur at the precinct where it was proposed the respondent would initially reside on his release. He also indicated that whilst it might take some time before the medication was fully effective that could be managed at the precinct.
- [47] Dr Aboud gave evidence that it was important that it was clearly understood that the respondent required more than an SSRI and that he actually required antiandrogen treatment in addition to such treatment. His evidence that an SSRI by itself would not be sufficient was in the following terms:¹³

“Can I take you to requirements 31 and 32, which appear at page 5 of the draft order. Requirement 31 presupposes consent to antilibidinal treatment and that he undergoes such treatment, and 32 requires him to undertake testing including the testing of testosterone levels and other things under that requirement?---Yes.

Are those two conditions, in your opinion, adequate to meet the need for antilibidinal treatment, assuming that Mr Gaske consents to it?---Yes, they are. I would like to add that when we say this term, antilibidinal treatment, there is more than one type of understanding of it. When we talk about the treatment of – or, prescribing an individual antidepressant medication such as an SSRI antidepressant in a high dose for what could broadly be labelled an antilibidinal property that’s not quite strictly an antilibidinal. It’s certainly not an antiandrogen.

No?---But it does have a very clearly understood purpose of reducing obsessive thinking that can be associated and often is associated with paraphilic drive. But I believe that while that is not covered in numbers 31 and 32 it would be covered in 30. Thirty-one and 32 would address the issue of an antilibidinal hormonal agent such as Androcur.

Yes. In your opinion, is there a need for both a high dose of an SSRI antidepressant as well as Androcur, or is Androcur by itself sufficient?---Again, this is a difficult question. Ideally one would prescribe both.

Yes?--- If one was to decide on only prescribing one, the preference would be the antilibidinal hormonal agent Androcur. If one was to only prescribe the SSRI antidepressant it would not, therefore, reduce testosterone; it would not reduce sexual drive. What it would reduce is obsessive thinking that would include the obsessive type of addictive tendency- the obsessive thinking of the individual who

¹³ T1-16, L9-35.

has the paraphilia-but they would still have a sexual drive and they would still be, I think, more at risk of acting on that drive.”

[48] In terms of the requirement for careful release planning, Dr Aboud’s evidence was that such planning could be achieved at the precinct and that until the medication had taken full effect, other measures should be put in place to manage the risk including a curfew and electronic monitoring.

[49] Dr Aboud also referred to the risk should the respondent withdraw his consent to the use of Androcur in the future. His evidence was in the following terms:¹⁴

“If Mr Gaske either declined to consent to Androcur or he subsequently withdrew his consent to Androcur what effect, if any, would that have on the ability to manage his risk of sexually reoffending?---If that occurred I believe that there would be an obvious risk that his sexual preoccupation would escalate, and with it there would be a deviant sexual preoccupation. If he withdrew his consent at a later time, for example, in several years time, and in the intermediate period he’s engaged in useful psychological treatment for sexual deviance while his libido was suppressed and he was not sexually preoccupied, then his withdrawal of consent would’ve occurred following a significant and useful period of therapy that he has not yet undertaken on an individual basis by a psychologist. If, on the other hand, he withdrew his consent at an earlier time, before he had engaged in a substantial – when I say substantial, I mean in excess of a year or two – a substantial period of time working with a psychologist, then his risk would be somewhere between the moderate to high risk that I highlighted exists at the moment, and the moderate to approaching low risk that would occur should he engage in all of the aspects of his supervision and community management. So in other words, I would say that if he withdrew consent at an earlier stage, his risk of sexual reoffending would increase probably to above moderate. Maybe not high, because there would be the existence of the other aspects of the supervision order.”

[50] Dr Aboud also stated that Dr Joyce Arnold was the psychiatrist who was to oversee the regime of medication and that she was experienced with the use and monitoring of anti-androgen medication.

[51] Drs Beech and Aboud both considered that the respondent should have an opportunity to meet with Dr Arnold and discuss the medication regime proposed and its side effects so he could give informed consent to the use of the medication. It was also considered that the respondent needed to discuss with Dr Arnold the need to take an SSRI as well as the anti-libidinal “hormonal” treatment. Dr Aboud stated that the respondent needed to discuss with Dr Arnold the pros and cons of taking “either of these two medication options and, also, the pros and cons of taking both at the same time.”¹⁵

[52] Having considered that evidence, the applicant made an appointment for the respondent to see Dr Arnold so the respondent could obtain specific information on the medication regime proposed, together with a clear understanding of the side effects of such medication.

¹⁴ T1-17, L14-33.

¹⁵ T1-21, L44-45.

- [53] The hearing resumed on 14 November 2016 with the respondent having met with Dr Arnold on 10 November 2016. A new Draft Supervision Order was proposed, which the applicant considered was appropriate.
- [54] It is clear that the respondent has now met with Dr Arnold and has given his consent to undergoing a course of anti-libidinal hormonal treatment, as proposed in the draft Supervision Order.
- [55] I am satisfied that the conditions proposed in the draft Supervision Order are sufficient to ensure the adequate protection of the community. I am also satisfied that the requirements under s 16 of the Act can be reasonably and practicably managed by Corrective Services Officers.
- [56] There is an order in terms of the draft Supervision Order, attached in Schedule 1 to these reasons.

SCHEDULE 1

THE ORDER OF THE COURT IS THAT:

1. The Court is satisfied to the requisite standard that the respondent, Darrel Brendan Gaske, 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 16 November 2026:

The respondent must:

Statutory requirements

1. report to a corrective services officer at the place, and within the time, stated in the order and advise the officer of the prisoners current name and address;
2. report to, and receive visits from, a corrective services officer as directed by the court or a relevant appeal court;
3. notify a corrective services officer of every change of the prisoners name, place or residence or employment at least two business days before the change happens;
4. be under the supervision of a corrective services officer;
5. comply with a curfew direction or monitoring direction;
6. comply with any reasonable direction under section 16B of the Act given to the prisoner;
7. comply with every reasonable direction of a corrective services officer that is not directly inconsistent with a requirement of the order;
8. not leave or stay out of Queensland without the permission of a corrective services officer;
9. not commit an offence of a sexual nature during the period of the order;

Employment

10. seek permission and obtain approval from an authorised corrective services officer prior to entering into an employment agreement or engaging in volunteer work or paid or unpaid employment;
11. notify an authorised 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;

Accommodation

12. reside at a place within the State of Queensland as approved by an authorised corrective services officer by way of a suitability assessment and obtain written approval prior to any change of residence;
13. if this accommodation is of a temporary or contingency nature, the respondent must comply with any regulations or rules in place at this accommodation and demonstrate reasonable efforts to secure alternative, viable long term accommodation to be assessed for suitability by Queensland Corrective Services;
14. not reside at a place by way of short term accommodation including overnight stays without the permission of an authorised corrective services officer;

No contact with victims

15. not have any direct or indirect contact with a victim of his sexual offences;

Activities and associates

16. not commit an indictable offence during the period of the order;
17. respond truthfully to enquiries by an authorised corrective services officer about his activities, whereabouts and movements generally;
18. disclose to an authorised corrective services officer upon request the name of each person with whom he associates and respond truthfully to requests for information from an authorised corrective services officer about the nature of the association,

address of the associate if known, the activities undertaken and whether the associate has knowledge of his prior offending behaviour;

19. submit to and discuss with an authorised corrective services officer a schedule of his planned and proposed activities on a weekly basis or as otherwise directed;
20. if directed by an authorised corrective services officer, make complete disclosure of the terms of this supervision order and the nature of his past offences to any person as nominated by authorised corrective services officer who may contact such persons to verify that full disclosure has occurred;
21. not visit or attend a caravan park without the prior written approval of an authorised corrective services officer;

Motor vehicles

22. notify an authorised 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 and drugs

23. abstain from the consumption of alcohol and illicit drugs for the duration of this order;
24. submit to any form of drug and alcohol testing including both random urinalysis and breath testing as directed by an authorised corrective services officer;
25. disclose to an authorised corrective services officer all prescription medication and over the counter medication that he obtains;
26. not visit premises licensed to supply or serve alcohol, without the prior written permission of an authorised corrective services officer;

Medical treatment

27. 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 an authorised corrective services officer at a frequency and duration which shall be recommended by the treating intervention specialist;

28. 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;
29. attend any program, course, psychologist, social worker or counsellor, in a group or individual capacity, as directed by an authorised corrective services officer in consultation with treating medical, psychiatric, psychological or other mental health practitioners where appropriate, to address sexual deviance, problem solving, maladaptive coping, avoidant coping, intimacy deficits, and emotional congruence with children;
30. take prescribed drugs as directed by a medical practitioner and disclose details of all prescribed medication as requested to an authorised corrective services officer;
31. having given consent to anti-libidinal hormonal treatment, and with that consent continuing, undergo treatment by prescribed anti-libidinal hormonal medication, as directed by a medical practitioner;
32. agree to undergo medical testing or treatment (including the testing of testosterone levels) as deemed necessary by the treating psychiatrist and supervising Corrective Services officer, and permit the release of the results and details of the testing to Queensland Corrective Services and/or other external Treatment Provider, if such a request is made for the purposes of updating or amending the supervision order or for ensuring compliance with this order, the expense of which is to be met by Queensland Corrective Services;

Contact with children

33. not establish or maintain any supervised or unsupervised contact including undertaking any care of children under 16 years of age except with prior written approval of an authorised corrective services officer. The respondent is required to fully disclose the terms of the order and nature of 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 offender to guardians

or caregivers and external agencies (i.e. Department of Child Safety) in the interests of ensuring the safety of the children;

34. advise an authorised corrective services officer of any repeated contact with a parent of a child under the age of 16. The respondent shall if directed by an authorised corrective services officer make complete disclosure of the terms of this supervision order and the nature of his past offences to any person as nominated by an authorised corrective services officer who may contact such persons to verify that full disclosure has occurred;
35. not without reasonable excuse be within 100 metres of schools or child care centres without the prior written approval of an authorised corrective services officer;
36. not to access school or child care centre at any time without the prior written approval of an authorised corrective services officer;
37. not visit or attend on the premises of any establishment where there is a dedicated children's play area or child minding area without the prior written approval of an authorised corrective services officer;
38. not visit public parks without the prior written approval of an authorised corrective services officer;
39. not be on the premises of any shopping centre, without reasonable excuse, between 8am to 9.30am and between 2.30pm and 4.30pm on school days other than for the purpose of:
 - a. approved employment
 - b. attending an approved bona fide pre-arranged appointment with a Government agency, medical practitioner or the likewithout the prior written approval of an authorised corrective services officer;
40. not join, affiliate with, attend on the premises of or attend at the activities carried on by any club or organisation in respect of which there are reasonable grounds for believing there is either child membership or child participation without the prior written approval of an authorised corrective services officer;

41. not collect any material that contains images of children, and dispose of such material if directed to do so by an authorised corrective services officer;

Technology, telephones and devices

42. obtain the prior written approval of an authorised corrective services officer before accessing a computer or the internet;
43. supply to an authorised corrective services officer any password or other access code known to him to permit access to such computer or other device or content accessible through such computer or other device and allow any device where the internet is accessible to be randomly examined using a data exploitation tool to extract digital information or any other recognised forensic examination process;
44. supply to an authorised corrective services officer details of any email address, instant messaging service, chat rooms, or social networking sites including user names and passwords;
45. not access, make, possess or distribute child exploitation material on a computer or on the internet or in any other format;
46. obtain the prior written approval of an authorised corrective services officer before possessing any equipment that enables him to take photographs or record moving images;
47. allow any other device including a telephone or camera to be randomly examined. If applicable, account details and/or phone bills are to be provided upon request of an authorised corrective services officer;
48. to advise an authorised corrective services officer of the make, model and phone number of any mobile phone owned, possessed or regularly utilised by the respondent within 24 hours of connection or commencement of use and includes reporting any changes to mobile phone details;
49. except with prior written approval from an authorised corrective services officer, the respondent shall not own, possess or regularly utilise more than one mobile phone; and

Relationships

50. notify the supervising corrective services officer of all personal relationships entered into by the respondent.