

SUPREME COURT OF QUEENSLAND

CITATION: *Attorney-General (Qld) v Currie* [2016] QSC 297

PARTIES: **ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND**
(applicant)
v
ASHLEY CURRIE
(respondent)

FILE NO: BS12305 of 2008

DIVISION: Trial Division

PROCEEDING: Application for contravention of a supervision order

DELIVERED ON: 12 December 2016 (ex tempore)

DELIVERED AT: Brisbane

HEARING DATE: 12 December 2016

JUDGE: Mullins J

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

CATCHWORDS: CRIMINAL LAW – SENTENCE – SENTENCING ORDERS – ORDERS AND DECLARATIONS RELATING TO SERIOUS OR VIOLENT OFFENDERS OR DANGEROUS SEXUAL OFFENDERS – DANGEROUS SEXUAL OFFENDER – GENERALLY – where respondent contravened a condition of a supervision order to abstain from illicit drugs – application pursuant to s 22(2) *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld) – where respondent diagnosed with schizoaffective disorder bipolar type, polysubstance abuse, antisocial personality disorder and borderline to low IQ – where there is an unacceptable risk to the community in the absence of a supervision order – whether adequate protection of the community can be ensured by the existing supervision order – where supervision order made

A-G for the State of Queensland v Currie [2009] QSC 112, related
Attorney-General for the State of Qld v Currie [2012] QSC 300, related
Dangerous Prisoners (Sexual Offenders) Act 2003, s 22

COUNSEL: J M Sharp for the applicant
C L Morgan for the respondent

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

HER HONOUR: I make an order in terms of the draft initialled by me and placed with the file. This order permits Mr Currie to be released from custody again subject to the requirements of the supervision order that was made by Justice Byrne on 5 May 2009, as amended by Acting Justice Dick on 14 October 2011. The supervision
5 order was made by Justice Byrne for the reasons set out in the decision Attorney-General for the State of Queensland v Currie [2009] QSC 112. The period of the supervision order was for 10 years.

Mr Currie has had some difficulties in complying fully with the supervision order.
10 Some detail of that is gleaned from the decision of Justice Philippides in relation to a contravention, Attorney-General for the State of Queensland v Currie [2012] QSC 300. After other contraventions, Mr Currie was released again on the supervision order on 10 March 2014 and 19 October 2015. The current contravention proceeding
15 relates to a positive urine drug analysis test. The sample was provided by Mr Currie on 20 July 2016. The results showed the presence of cannabis sativa. The contravention that Mr Currie contravened the requirement of the supervision order to abstain from illicit drugs for the duration of the order is admitted.

Mr Currie is now 40 years old. For the purpose of the hearing, the applicant relies on
20 a review undertaken by psychiatrist Dr Sundin in order to provide a risk assessment report in relation to Mr Currie, and reports from his treating psychologist, Dr Hatzipetrou. Dr Sundin's report was prepared on the basis of the written materials without an interview, but Dr Sundin had the advantage of having provided seven
25 previous reports in relation to Mr Currie, the most recent of which was on 30 September 2015 after an interview with Mr Currie on 3 September 2015.

Dr Sundin's familiarity with Mr Currie's history and his problems, and being able to consider the updated material from the prison in relation to Mr Currie in addition to
30 the two reports from Mr Hatzipetrou enabled Dr Sundin to express confidently an opinion on the risk of Mr Currie's sexual reoffending if released into the community and the effectiveness of the supervision order. Dr Sundin describes Mr Currie as a man who faces a number of significant challenges. These include the diagnosis of schizoaffective disorder bipolar type, polysubstance abuse, including alcohol,
35 cannabis, synthetic cannabis and inhalants, antisocial personality disorder and borderline to low IQ.

In his report dated 28 May 2016, Dr Hatzipetrou recorded that he had seen Mr Currie for 25 treatments since October 2015. In his more recent report dated 5 August
40 2016, Dr Hatzipetrou addressed the issues that he considers have underpinned Mr Currie's breaching of the supervision order. Mr Currie had a gambling problem that caused financial stress. Dr Hatzipetrou has observed that Mr Currie has problems in executive functioning, which impacts on his capacity to plan and organise activities. He felt trapped and frustrated with accommodation in the Wacol Precinct and
45 claimed to be suffering depression as a result of his placement there before the most recent contravention.

Dr Hatzipetrou is of the opinion that Mr Currie is likely to require, on release under the supervision order, a greater level of support in his living environment and may benefit from seeking support through non-government organisations which provide care to people with complex mental health disorders and cognitive impairments. Dr Hatzipetrou proposes that Mr Currie should undergo an occupational therapy assessment to obtain an objective measure of his capacity for independent living. Dr Sundin agrees with this recommendation.

Both Dr Sundin and Dr Hatzipetrou recognise the benefit that Mr Currie will obtain from ongoing engagement with ATODS. Dr Sundin is of the opinion that Mr Currie remains an unacceptable risk to the community in the absence of a supervision order, but supports the release of Mr Currie under the supervision order that has previously applied to him, including the recommendations for ongoing treatment and assessment.

The evidence of psychiatrist Dr Sundin and psychologist Dr Hatzipetrou is acceptable and cogent, and satisfies me that Mr Currie's risk of sexual reoffending can be managed under the supervision order that has applied to Mr Currie previously and that Mr Currie has discharged the onus he bears under section 22, subsection (2) of the Dangerous Prisoners (Sexual Offenders) Act 2003 of satisfying the Court on the balance of probabilities that despite the contravention, the adequate protection of the community can be ensured by the existing supervision order. That is why I made the order in terms of the draft that was provided by the applicant, who recognised appropriately, in the submissions made on the applicant's behalf, that the material supports the respondent's return to the community subject to the supervision order.
