

CHILDRENS COURT OF QUEENSLAND

CITATION: *PRW v Director of Public Prosecutions* [2023] QChC 19

PARTIES: **PRW**
(Applicant)

v

DIRECTOR OF PUBLIC PROSECUTIONS
(Respondent)

FILE NO/S: CCJ 76/23

DIVISION: Childrens Court of Queensland

PROCEEDING: Bail Application

DELIVERED ON: 6 March 2023 (delivered *ex tempore*)

DELIVERED AT: Brisbane

HEARING DATE: 6 March 2023

JUDGE: Dearden DCJ

ORDER: **1. Application for bail granted.**

CATCHWORDS: CRIMINAL LAW – YOUTH JUSTICE – PROCEDURE – BAIL – application for bail in respect of 19 offences – where the applicant has a lengthy criminal history – where the applicant is in a show cause position – risk of re-offending and lack of insight into offending

COUNSEL: D Iliffe for the applicant
A Worthington for the respondent

SOLICITORS: Legal Aid Queensland for the applicant
Office of the Director of Public Prosecutions for the respondent

Introduction

[1] This is an application for bail for PRW, in respect of the following offences:-¹

- (a) 1 x Unlawful use of a motor vehicle (26.01.23)
- (b) 1 x Unlawful use of a motor vehicle (27.01.23)
- (c) 1 x Stealing (01.02.23)
- (d) 1 x Unlawful use of a motor vehicle (02.02.23)

¹ Application for Bail, (a) – (s).

- (e) 1 x Enter dwelling and commit (27.01.23)
- (f) 1 x Stealing (04.02.23)
- (g) 1 x Stealing (04.02.23)
- (h) 1 x Unlawful use of a motor vehicle (05.02.23)
- (i) 1 x Enter premises and commit indictable offence (05.02.23)
- (j) 1 x Robbery with actual violence armed/in company/wounded/used personal violence (05.02.23)
- (k) 1 x Attempted enter premises with intent to commit indictable offence (05.02.23)
- (l) 1 x Possessing dangerous drugs (08.02.23)
- (m) 1 x Possessing dangerous drugs (08.02.23)
- (n) 1 x Enter premises with intent (21.01.23; alternate
- (o) 1 x Receiving tainted property (23.01.23)
- (p) 1 x Fraud (23.01.23)
- (q) 1 x Fraud (23.01.23)
- (r) 1 x Fraud (23.01.23)
- (s) 1 x Offence to buy or possess S4 or S8 medicines or hazardous poisons (12.02.23)

[2] The applicant has a lengthy criminal history,² which now runs to 12 pages and indicates some seven previous orders for detention. The applicant is now 13 and a-half years old and has currently been remanded in custody for 26 days.

[3] The applicant at the time of arrest was subject to bail, the matters which were finalised in the Childrens Court of Queensland on 8 February 2023 and bail has been refused on 9 February 2023 in relation to 13 offences and while in custody, the applicant was charged with six further offences. The applicant appeared at the Toowoomba Childrens Court on 13 February 2023 and was remanded in custody.

[4] All offences subject of this application are currently returned all in the Toowoomba Childrens Court on 6 April 2023, and the indictable offence of robbery will need to be dealt with in the Childrens Court of Queensland.

² Affidavit of Griffin Walker affirmed 3 March 2023, exhibit A.

[5] The facts of the offending are summarised at exhibit 1 - outline of submissions for the child [8] and also in the Crown's/respondent's helpful annexure A to exhibit 4.

[6] As the respondent's counsel, Ms Worthington, points out, the most disturbing of the current bundle of offences are the offences that occurred on 5 February 2023, which included unlawful use of a motor vehicle, enter premises and commit indictable offence, armed robbery in company with personal violence, and an attempted enter premises and commit indictable offence. That bundle of offences included the applicant, with other juvenile co-offenders, brandishing a hammer at a complainant while co-offenders entered that complainant's vehicle and drove it away, including crashing that vehicle into the vehicle of the manager of a car wash in Toowoomba.

The Law

[7] The law in respect of bail of children is appropriately and adequately summarised by the applicant child's legal representative at exhibit 1 [12] - [24] and by the respondent in similar terms at exhibit 4 - outline of submissions on behalf of the respondent [11] - [21].

Discussion

[8] The tension in this matter are the issues arising from the applicant's age (13), the applicant's status as a child subject to a long-term guardianship order with the Department of Child Safety, although raised in the care of his grandparents since he was a small child, the ability of those grandparents to look after the applicant, and what the respondent quite properly identifies as a clear and obvious risk of committing further offences, given the child's persistent offending conduct, which is clearly related to illicit drug use, in particular, an involvement in methamphetamine use, concerns about the ability of his grandparents to manage a grant of bail, the serious escalation in the kind of offending which I have just referred to arising out of the offences on 5 February 2023, the background of some seven periods of detention previously, including 186 days spent in pre-sentence detention in 2022, and whether an even stricter set of bail conditions will be sufficient to change the applicant's behaviour.

[9] In particular, the respondent points to the lack of insight and the concerning underlying causes of the applicant's offending in the summary that Ms Worthington

has identified at exhibit 4 [39]. It is clear that the combination of drug use, the adrenaline rush of further offending, and the lack of compliance with boundaries set by his grandparents are all relevant and very concerning issues for an applicant who the applicant's counsel acknowledges is in a show cause position and where the two clear issues are the risk of further offending and the risk of endangering the safety or welfare of other persons (particularly arising out of the alleged behaviour on 5 February 2023).

- [10] In that respect, Ms Iliffe, who appears for the applicant, indicates that the applicant has demonstrated a desire to change and the proposed bail condition will be a 24 hour curfew and the conditional bail program which, in her submission, has not previously had an opportunity to work because the applicant has so frequently been in and out of detention on previous grants of bail, would be in combination the factors (together with a no-contact with co-accused or Crown witnesses) a combination which would ultimately persuade this court that given the applicant's age (13) and an expressed willingness to change behaviour, be sufficient to persuade the court that he has shown cause, and that the relevant risks of committing further offences and endangering members of the public can be sufficiently ameliorated to grant bail.
- [11] In that respect, although it cannot be a condition of bail, Ms Iliffe has indicated that the applicant's grandparents have undertaken to notify police immediately if the applicant is in breach of his curfew condition and the applicant has now reached a situation where it is quite clear that any breach will see the applicant back in custody and extremely unlikely to be granted bail in respect of any further breaches.
- [12] In particular, it would appear that the applicant, who is currently in the Cleveland Youth Detention (which is a long way from family in Toowoomba), would be, if granted bail, returned firstly to Brisbane and then to Toowoomba with youth justice officers, would be subject to an intensive commencement to the conditional bail program, and then managed with a high level of support, which is identified in the conditional bail program designed to assist with the underlying issues which appear to be both education deficits, the issues arising out of the reasons that the child is currently in care (albeit being cared for by grandparents) and of course, quite concerningly, the ongoing issues with substance abuse.

- [13] I accept that this is a finely balanced exercise and it seems to me that the one comfort to the court is that the imposition of the 24 hour curfew imposed under the bail condition, coupled with the undertaking of the child's grandparents to report any breach immediately, which if they are no longer able to look after him, would be effectively an obligation transferred to whatever placement the Department of Child Safety utilised, which is, it seems to me, the last opportunity that the applicant will have to demonstrate that he is capable of complying with bail. As indicated, any breach will see him immediately back in custody, and it would seem that there would be very little prospect of the applicant being granted bail in the future in those circumstances.
- [14] In weighing up all of those matters, I am, on balance (and I note that the issues raised by the respondent Crown are clear, obvious and apparent) and it is fundamentally that combination of the age, the provisions of the conditional bail program and most particularly, the 24 hour curfew, which ultimately just marginally tip the application in favour of the applicant.

Order

- [15] I make the following order:
- (1) Application for bail granted.