

**SUPREME COURT OF QUEENSLAND**

**File No 6216 of 2003**

BETWEEN:

**RAYMOND MARK JACOBS**

Applicant

AND:

**QUEENSLAND COMMUNITY CORRECTIONS BOARD**

First Respondent

AND:

**THE DIRECTOR-GENERAL, DEPARTMENT OF CORRECTIVE SERVICES**

Second Respondent

AND:

**BERT JACKA, SENTENCE MANAGEMENT WORC PROGRAM**

Third Respondent

**MOYNIHAN J – REASONS FOR JUDGMENT**

CITATION: *Jacobs v Queensland Community Corrections Board & Ors*  
[2003] QSC 384

PARTIES: **Raymond Mark Jacobs**  
(Applicant)

**v**

**Queensland Community Corrections Board**  
(First Respondent)

**The Director General, Department of Corrective Services**  
(Second Respondent)

**Bert Jacka, Sentence Management WORC Program**  
(Third Respondent)

FILE NO/S: SC 6216 of 2003

DIVISION: Trial

PROCEEDING: Application

ORIGINATING COURT: Supreme Court

DELIVERED ON: 12 November 2003

DELIVERED AT: Brisbane

HEARING DATE: 8 August 2003

JUDGE: Moynihan SJA

ORDER: **Application Dismissed**

CATCHWORDS: Judicial review of a decision of Qld Community Corrections Board – where Applicant sought to have decision reviewed because it was based on a previous erroneous decision

Legislation

*Corrective Service Act 2000 (Qld)*

COUNSEL: The Applicant in person

S McLeod for the First Respondent

M Plunkett for the Second Respondent and Third Respondents

SOLICITORS: Crown Solicitor for the First and Second Respondents

- [1] This is an application for the judicial review of a decision of the First Respondent made on 6 June 2003 to grant the Applicant's application for a post prison community based release order in terms of a release to work for the purpose of the Applicant's seeking and obtaining employment.
- [2] The Applicant also seeks the review of the Second Respondent's decision of 10 June 2002 to refuse him reintegration leave.
- [3] The position with respect to the Applicant's entitlements is a labyrinth of legislative and bureaucratic complexity. The Applicant conducted his own case. The voluminous and verbose written material and oral submissions contain a myriad of complaints. Some are apparently pertinent to the issues raised in the grounds for statutory review, some may be and some, on any view of it, are not. I have not considered material sent in by the applicant after the hearing but have placed it back on the file.
- [4] By way of a single, simple example, the Applicant states that he was informed that there were no minutes of a meeting of the First Respondent of 6 September 2002, it was just a simple one line refusal. This constituted a breach of law. All the information used in respect of the decision of which he now complains was infected

by this error and there was no meeting held with respect to his application. Therefore he must succeed in this application.

- [5] The application has its origins in that on 8 October 1996 in the Supreme Court of Brisbane the Applicant was sentenced to 14 years' imprisonment for drug trafficking. He was declared to have been in pre-trial custody for a number of specified periods for an aggregation of 489 days.
- [6] On 13 November 1996 the Applicant was sentenced in the District Court at Southport to 12 months' imprisonment on each of three offences relating to the unlawful possession of a motor vehicle. These terms were to be served concurrently but cumulative on the 14 year sentence for drug trafficking imposed on the 8 October.
- [7] In sentencing the Applicant the District Court judge, with a view to "ensuring there would be no doubt about the Applicant's release date", recommended that he be eligible for parole on 7 December 2002, "six months beyond the date on which he was "presently eligible" for parole.
- [8] On 16 September 2002 the Applicant applied for a post prison community based order. The First Respondent refused the application on 6 December 2002 and on 5 March 2003 the Applicant filed an application for judicial review.
- [9] On 10 March 2003 the Applicant applied afresh for a post prison community based release order. On 6 June 2003 the First Respondent determined to grant him a release to work order for the purpose of seeking employment to be in force until 6 June 2010 unless otherwise determined. The applicant seeks to have that order judicially reviewed in these proceedings.
- [10] In the meantime, on 14 May 2003, a consent order was made with respect to the application for statutory review of 5 March 2003. The refusal of 6 December 2002 was set aside and the First Respondent was to reconsider that application at its meeting of 6 June 2003.
- [11] The release to work order of 6 June 2003 the subject of this application was made under s156 of the *Corrective Services Act 2000*. The section provides that the First Defendants' functions under s156 include deciding applications for post prison community based release orders. These are dealt with by s141 which provides for release –
  - (a) To seek and obtain employment by release to work order; or
  - (b) On home detention by a home detention order; or
  - (c) On parole;
    - (i) If the board is satisfied that exceptional circumstances exist in relation to the prisoner by exceptional circumstances parole order; or

(ii) Otherwise – by parole order.

These are matters in the unfettered discretion of the First Respondent.

- [12] In making the release to work order of 6 June the First Respondent had determined that the best option for the Applicant and the community was for him to be assisted and supported to initially focus on obtaining and maintaining gainful employment for lengthy periods.
- [13] By a letter of 10 June 2003 the Applicant was advised of the First Respondent's decision of 6 June. The letter went on to state, "To comply with legal requirements it will be necessary for you to submit a further application form for post-prison community based release (home detention/parole) prior to further consideration of your case."
- [14] By letter of 12 June 2003 the Applicant acknowledged receipt of the First Respondent's letter of the 10<sup>th</sup> advising him of the decision to grant him release to work. He went on to say that he was aggrieved by the decision of 6 June and sought a full statement of reasons on how the decision was arrived at, the facts used to form the basis of the decision and to be shown how they were different from those on which the earlier refusal of 5 September 2002 had been based.
- [15] By a letter of 12 June 2003 the Second Respondent advised the Applicant that because he had been granted the release to work order by the First Respondent, he could no longer be on a community work order. This meant that any grant of reintegration leave as part of the community work order could not be granted.
- [16] Against this background, the Applicant's complaints appear to be to the following effect. In making the decision of 6 June the First Respondent had failed to take into account the wrongful decision of 6 December 2002. Had his application then under consideration been successful, as he contends it ought to have been, he would have received parole with a release to work order on 6 December. The sentencing judge's recommendation of 13 November 1996 that the Applicant be eligible for parole on 7 December 2002 would have been satisfied.
- [17] The Applicant then contends he would then have become entitled to make a further application for a post release order and on 6 June would have obtained an order for release on home detention.
- [18] It was not inevitable that the application would be successful as the Applicant appears to contend. It is not demonstrated that the First Respondent did not consider the application on the merits on 6 June.
- [19] The Applicant further complains that he was not informed of the conditions of the work release order, rather they were concealed from him. It also seems that he

complains that the First Respondent did not consider his application of 12 September 2002 afresh on 6 June before granting him a release to work order for the purpose of seeking and obtaining employment.

- [20] The Applicant's complaint that the letter of 10 June concealed the conditions of the work order appears to arise from the fact that in the course of proceedings for judicial review he discovered that blind copies of the letter of 10 June 2003 were sent to the general manager of the WORC program and the manager of the WORC release centre to which the Applicant was to be sent.
- [21] The letter to the manager requested progress reports on the Applicant together with specific advice in relation to additional conditions for imposition when the Applicant had completed approximately six months release to work.
- [22] This, however, appears to be an internal administrative arrangement not of itself precluding the Applicant from making any applications for a post prison community release order to which he might otherwise be entitled to make at any time.
- [23] The Applicant apparently contends that his application for a post prison community based release order had to be considered.
- [24] I am unable to identify any reviewable error on the part of the First Respondent in respect of the decisions sought to be reviewed here.
- [25] I have not been able to identify any decision by the Third Respondent which would be susceptible of judicial review under the application with which I am dealing. The Third Respondent deposes to discussing with the Applicant on 13 June 2003 about the implications of the work release order including the question of a placement in an appropriate community correction centre.
- [26] He deposes to discussions about whether the Applicant could apply for a post prison community based release order in the form of home detention or parole immediately after the application or decision of the 12<sup>th</sup> as to which there were different views. He advised the Applicant he would withdraw his application for a post prison community based release order rather than lose his eligibility for remission of sentence by accepting it.
- [27] On the 19 June 2003 the Third Respondent met with the Applicant for the purpose of having him sign his release to work order which the Applicant did with a hand written reservation to the effect that he considered he was entitled to a better option.
- [28] The Applicant's position seems to be that he should be granted, at least, work release, community based post prison release by his release date or home detention.

- [29] The Applicant's complaint about the Third Respondent's role, without suggesting that he accepts that version of events, appears to be that the Third Respondent ought to have explained the conditions of the work release order in more detail and did not give him his "progression dates."
- [30] The position of the Second Respondent is that s56 of the *Corrective Services Act* provides for consideration of reintegration leave as a condition of community work orders to help a prisoner's reintegration into the community. As a consequence of the work release order of 6 June granting a post prison community base release order pursuant to s140, the Applicant would no longer be on a program in respect of which s56 operates.
- [31] I have not been able to identify any error of law by either the Second or Third Respondent which is reviewable on this application.
- [32] The application is dismissed.