

# SUPREME COURT OF QUEENSLAND

CITATION: *Attorney-General for the State of Queensland v Edwards*  
[2009] QSC 311

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

FILE NO/S: 8456/07

DIVISION: Trial Division

PROCEEDING: Application

ORIGINATING COURT: Supreme Court

DELIVERED ON: 24 September 2009

DELIVERED AT: Brisbane

HEARING DATE: 22 September 2009

JUDGE: A Lyons J

ORDER: **Order as per attached schedule**

CATCHWORDS: CRIMINAL LAW – SENTENCE – SENTENCING ORDERS – ORDERS AND DECLARATIONS RELATING TO SERIOUS OR VIOLENT OFFENDERS OR DANGEROUS SEXUAL OFFENDERS – DANGEROUS SEXUAL OFFENDER – GENERALLY – where the Attorney-General applies for an order under Division 3 Dangerous Prisoners (Sexual Offenders) Act 2003 that the respondent be detained in custody for an indefinite term – whether the respondent is a serious danger to the community in the absence of such an order.

*A-G (Qld) v Edwards* [2008] QCA 156

*Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld) s 22*  
*Criminal Code Act 1995 (Cth) s 474.17*

COUNSEL: Mr J Rolls for the applicant  
Mr J Allen for the respondent

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

**A LYONS J:**

## History

- [1] The respondent Travice Edwards is 38 years of age and he is currently detained in the Arthur Gorrie Correctional Centre but his deteriorating health in the last 12 months has required his placement at times in the medical unit at the Centre or the Princess Alexandra Hospital (PAH). Mr Edwards was convicted on 20 August 1994 of three charges of rape in relation to three separate incidents all of which occurred in 1993. He was sentenced to a 14 year concurrent prison term.
- [2] On 29 September 2007 there was an application by the Attorney-General pursuant to the *Dangerous Prisoners (Sexual Offenders) Act 2003* seeking Mr Edwards' continuing detention or release subject to a supervision order.
- [3] On 20 December 2007 Martin J ordered that Mr Edwards be detained in custody indefinitely for care, treatment or control.
- [4] The decision was appealed and on 20 June 2008 the Court of Appeal ordered that Mr Edwards be released from custody, subject to a supervision order for a period of 10 years. In the decision Holmes JA stated that:<sup>1</sup>
- “[33] The order as proposed at first instance contained supervision arrangements which would keep a relatively tight control on the appellant's activities while allowing him to take advantage of the support which he seems to recognise as crucial to his success. As well as provision for practical supervision, the conditions included abstinence from illicit drugs and alcohol and the completion of any prescribed programme. A sexual offenders' maintenance programme, which is available in the community, and a drug and alcohol programme would plainly assist the appellant. None of the psychiatrists suggested that the appellant should be regarded as a 'child sex offender', so as to require particular conditions in that regard.
- ...
- [37] Having regard to the psychiatric evidence as to the relevant risks, to the conditions which can be imposed on the appellant, and to Ms Bond's contribution, I am satisfied that a supervision order with appropriate conditions can adequately protect the community on the appellant's release. Other important, though not paramount, considerations - the desirability of the appellant's rehabilitation, and of his being given the greatest degree of liberty possible consistent with the aims of the Act - point also to that as the preferable order.”
- [5] Pursuant to that order Mr Edwards was required among other things not to commit an indictable offence and that he not commit an offence of a sexual nature during the period of the order. On Mr Edwards release the anticipated accommodation with his aunt Ms Bond was not immediately available and he resided at the Wacol precinct.
- [6] On 26 August 2008 a warrant was issued for Mr Edwards' arrest as it was alleged that:
1. On 4 August Mr Edwards had made five telephone calls to a female employee of a video store, stating to her that he knew what time she finished

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<sup>1</sup> *A-G (Qld) v Edwards* [2008] QCA 156.

work, that he wanted to talk to her and that he would wait outside where he would rape her;

2. On 4 August he made a sexually obscene telephone call to the female manager of Offender Development at the Wolston Correctional Centre;
  3. On 4 August 2008 Mr Edwards made two telephone calls to the Wolston Correctional Centre and made obscene suggestions to the female telephone operator;
  4. On 5 August 2008 Mr Edwards made four telephone calls to his supervising case manager and made obscene statements;
  5. On 5 August 2008 Mr Edwards made two telephone calls to an adult female former employee of Queensland Corrective Services and made obscene suggestions;
  6. On 22 August 2008 Mr Edwards made an obscene telephone call to a female program officer at the Wolston Correctional Centre, as well as obscene suggestions;
  7. On 22 August 2008 Mr Edwards made an obscene telephone call to a female administration officer at the Wolston Correctional Centre.
- [7] Mr Edwards was re-arrested and on 27 August 2008 he attempted suicide in the Supreme Court holding cell. On 10 September 2008 Chief Justice de Jersey ordered psychiatric assessments in relation to the contravention proceedings.
- [8] On 3 October 2008 Mr Edwards was admitted to the Princess Alexandra Hospital secure unit following another apparent suicide attempt whilst in custody.
- [9] On 13 July 2009 Mr Edwards pleaded guilty to 12 breaches of s 474.17 of the *Criminal Code Act 1995* (Cth) and was sentenced to six months imprisonment.

### **This application**

- [10] The Attorney-General now applies for relief pursuant to s 22 of the *Dangerous Prisoners (Sexual Offenders) Act 2003*. Section 22 provides that if the court is satisfied on the balance of probabilities that the respondent has contravened a supervision order then unless the respondent satisfies the court on the balance of probabilities that adequate protection of the community, despite the contravention, can be ensured, the court must rescind the supervision order and make a continuing detention order.

### **The psychiatric assessments**

- [11] Mr Edwards was examined by two psychiatrists, Dr Michael Beech and Dr Basil James. He was examined by Dr Michael Beech on 11 January 2009 and by Dr Basil James on 13 October 2008 and on 29 May 2009.

### **Dr Beech's Report**

- [12] Dr Beech's report noted that Mr Edwards was an Aboriginal man who had a severely prejudicial childhood which was marred by parental separation. He had also witnessed the killing of his mother by her white boyfriend. Mr Edwards was placed in a white foster family from the age of eight to 12 years. Mr Edwards

described an extremely abusive upbringing that included neglect, severe physical abuse, emotional abuse and the witnessing of the sexual abuse of his sister.

- [13] Mr Edwards was placed in the care of the Department of Children's Services from the age of 12 and was subsequently placed in the Wilson Youth Home and then Boystown. In response to this, he frequently absconded. Mr Edwards describes ongoing physical and sexual abuse. At the age of 15 he was placed in Westbrook, where he remained until he was 18 years of age. After his release from Westbrook he was arrested for stealing and other crimes and sentenced to a period of imprisonment. On release he returned, yet again, to gaol within a few months.
- [14] He was on release for a period of 12 months before he returned to gaol on the three charges of rape. Mr Edwards had married in 1992 and the three rape offences occurred over a period of four months in 1993. All of the victims were known to Mr Edwards and the offences involved Mr Edwards persuading young women to travel with him on a pretext. He would then take them to an isolated place and attack and rape them.
- [15] Dr Beech concluded:<sup>2</sup>  
"From the age of 12 years, his longest period of being at large within the community was 12 months prior to his incarceration in 1994. He had limited support and experience within the outside world."
- [16] Dr Beech reported that when Mr Edwards was initially placed in custody, he was initially involved in fights, but around 2000 he settled down and reflected on his circumstances and was eventually placed in the residential section. He was given a low security classification and attained positions of trust within the correctional centre.
- [17] Mr Edwards had completed a sexual offender treatment program and Mr Edwards indicated this had allowed him to see the nature of his thinking and that this had led to a reduction in his animosity towards people and a reduction in his anger. Dr Beech concluded that Mr Edwards has an anti-social personality disorder aggravated by substance abuse, with the latter being in remission.
- [18] As a result of his childhood difficulties and subsequent delinquency and offending, Dr Beech considers Mr Edwards has had very limited exposure to the outside world. Dr Beech also stated that Mr Edwards had suffered an extremely prejudicial childhood, with exposure to instability, dysfunction and abuse. Dr Beech considered that this had left Mr Edwards with a complex post-traumatic stress disorder, which was manifested by mood instability and impulsivity, depressive episodes, recurring intrusive recollections of abuse and a vulnerability to mental, physiological and emotional deterioration through periods of personal stress. These stressors in the past had included a reduction in supervision and support.
- [19] Dr Beech also considered that it was likely that after Mr Edwards' release from prison in 2008 he developed a severe major depressive episode with melancholic features. He also concluded that it is likely that he developed psychotic symptoms and in that context he developed suicidal ideation, feeling of hopelessness and experienced increasing personal stress.

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<sup>2</sup> Report of Dr Michael Beech, dated 11 January 2009 p 8.

- [20] Dr Beech noted that in the time after his release, there were limited supports for him. In particular, he did not seem to have any pre-arranged counselling to help mitigate the difficulties he experienced following his release.
- [21] Dr Beech also stated that:  
“At the time I saw Mr Edwards he was very unwell. The nature of his disorder has weakened him and I would see that his risk of offending in that state has been reduced simply by the effects of his illness. Should he improve however then matters noted above will become pertinent. Should his medical condition stay as it is or indeed deteriorate, I believe that Mr Edwards would require significant medical treatment and it is likely that his immediate capacity to harm others has been reduced.”<sup>3</sup>
- [22] At the hearing Dr Beech confirmed his view that Mr Edwards suffered from a mental illness, probably depression, and that he was prone to recurrent episodes of psychotic depression. He considered he was “a man who has been prone to reacting very poorly to stress, particularly stress that comes from external factors, and I think that he is a man who is at risk of further deterioration if he’s not provided support.”<sup>4</sup> He also stated that Mr Edwards was probably so unwell that his capacity to harm others was reduced but he considered that he was still capable of offending. He stated that if his condition deteriorated again he was more likely to return to making obscene phone calls which would immediately bring him to the attention of the authorities “but failing that I have a concern that he could do something like grab a nearby child”.<sup>5</sup>
- [23] Dr Beech considered that the support offered by Ms Young and Ms Bond went some way towards fulfilling the support Mr Edwards required. He considered that the support service proposed by Ms Young, namely Alani, was a very good support service and in fact might be the service best able to co-ordinate Mr Edwards’ care. He indicated however that there could be bureaucratic hurdles which needed to be negotiated to ensure that care was provided. Dr Beech considered that Mr Edwards needed to be plugged into the health system before he was released from custody and he needed to be “integrated into the medical, psychiatric, cultural and community services”.<sup>6</sup>

### **Dr James’ Report**

- [24] Dr James stated that he had previously indicated that Mr Edwards had a diagnosis of Antisocial Personality Disorder. He also stated that in his earlier report before Mr Edwards’ release in 2008 that Mr Edwards needed a transition at that stage which was “... slow, gradual, supported, and certainly not including an unstructured or a relatively unstructured community setting at least in the first year”.<sup>7</sup> He also said that he would need intense support and that the intensity of the risk would be reduced if the support were provided.

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<sup>3</sup> Report of Dr Michael Beech, dated 11 January 2009 p 11.

<sup>4</sup> Transcript day 1 at p 15, ll 45-50.

<sup>5</sup> Transcript day 1 at p 16, l 15.

<sup>6</sup> Transcript day 1 at p 18, l 37.

<sup>7</sup> Report of Dr Basil James dated 21 August 2009, p 12.

- [25] He also noted<sup>8</sup> that Mr Edwards currently suffers from cirrhosis of the liver with complications, chronic liver failure with complications, hepatitis C, and type 2 diabetes mellitus. This results in the respondent having a 45% survival rate for one year and a 35% survival rate for two years.
- [26] Dr James indicated<sup>9</sup> that Mr Edwards had found the transition from prison to the community “very difficult”, had taken an overdose of medication and there were references to suicide. He considered he had also expressed a wish to be “taken back to prison”.
- [27] Dr James noted that Mr Edwards had experienced:<sup>10</sup>
- “some benefit from exposure to the experience of community living...” but “... without the input of a much more active and clearly identified and committed rehabilitative processes, it would be doubtful if Mr Edwards would fare much better were he again to be released under a supervision order ... The absence of such an identifiable rehabilitation component, including a committed case manager, with established links with a general practitioner, and with a pre arranged psychotherapist, working not only in (close) collaboration with probation officers monitoring the supervision order, but also, importantly incorporating an aboriginal representative is in my opinion a very important missing element.

It appears to me highly likely the offences committed by Mr Edwards were significantly motivated by his wish to be returned to prison; although, of course, the way he offended was resonant of his previous gender linked and ethnically linked aggressivity.”

Later Dr James observed:<sup>11</sup>

“My overall opinion is that, although from the point of view of community safety, it would be reasonable to contemplate a repeat of Mr Edwards’ release under the provisions of a Supervision Order comparable to that previously extant; if a comprehensive and truly rehabilitative plan cannot be energetically and effectively actioned, it may be more expedient as well as humane that he remain, at least for the time being, in the prison environment.”

- [28] At the hearing Dr James gave evidence that currently Mr Edwards’ physical and mental health were not good. He considered that he had a “significant depressive disorder”. He also stated that “the report showing the state of Mr Edwards’ ill health is likely to be a significant factor in reducing the realistic risk of his reoffending.”<sup>12</sup> Dr James also stated that if Mr Edwards were to be released the management of his health was a very high priority and that if it were not Mr Edwards would not only be disadvantaged, from a health point of view, but he also thought it would be likely “to increase his risk of re-offending, particularly in the way that he reoffended most recently by this first instance of the telephone.”<sup>13</sup>

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<sup>8</sup> Report of Dr Basil James dated 21 August 2009, p 11.

<sup>9</sup> Report of Dr Basil James dated 21 August 2009, p 12.

<sup>10</sup> Report of Dr Basil James dated 21 August 2009, p 13.

<sup>11</sup> Report of Dr Basil James dated 21 August 2009, p 14.

<sup>12</sup> Transcript day 1 at p 5, ll 26-27.

<sup>13</sup> Transcript day 1 at p 5, ll 37-39.

- [29] In managing the risk in the community Dr James considered it was crucial that a number of matters were put in place prior to Mr Edwards' release. In particular he considered it was vital that there be a pre-arrangement with Centrelink so that he could access funds quickly. He also needed to have a current Medicare card as well as pre-organised appointments with his general practitioner, the psychiatric unit at the PAH and the Community Mental Health Service at Inala.
- [30] In Dr James' view it was also crucial that someone took responsibility and co-ordinated all of these necessary appointments and that someone amongst the health professionals took responsibility "for coordinating and driving that continuing health care in the community."<sup>14</sup> He also considered that it was important that there be some contact with a community service such as Alani, as well as an introduction to a hospice or palliative care service which could probably be arranged through his general practitioner. Dr James said that on his previous release the less than optimum health care caused Mr Edwards to be depressed and increased his risk of re-offending.
- [31] Dr James considered that the housing placement with Ms Bond was suitable and indeed would be very helpful to Mr Edwards but that the risks of re-offending would escalate if he did not receive support. He considered that the circumstances which arose last time which prevented him from living with Ms Bond increased his depression and contributed to his re-offending. He also considered that there was considerable cultural support offered by Ms Young from the Aboriginal and Torres Strait Legal Service which would be of great assistance to him.

### **Circumstances surrounding the contravention**

- [32] It would appear from the reports of the psychiatrists that immediately on release Mr Edwards stayed at the Wacol precinct while waiting for his aunt's house to be made available. The delay was caused by the fact that too many people were residing at that residence. It is clear that Mr Edwards found the time after his release stressful and particular stressors for him were the fact that he experienced the death of his nephew and his uncle. His uncle was found dead in the car as a result of a myocardial infarction, while his nephew committed suicide. Mr Edwards had been close to both men.
- [33] It would seem that Mr Edwards asked for counselling, but none was provided and he became depressed and developed the suicidal ideation. It would appear that on one occasion he tried to hang himself at the house but was talked out of it and that on another occasion he took an overdose of tablets. He was found by Wacol staff and taken to the Princess Alexandra Hospital. It would appear that around this time Mr Edwards also stopped taking his medication for his diabetes.

### **Current medical conditions**

- [34] The evidence indicates that Mr Edwards has been an inpatient and an outpatient at the PAH on many occasions since his re-arrest due to his complex medical conditions. These medical conditions only appear to have become prominent since his release in June 2008. Mr Edwards was described in the letter from Dr Neville Henry, senior medical officer at the PAH dated 11 September 2009, as suffering from liver failure with episodes of hepatic encephalopathy, cirrhosis of the liver,

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<sup>14</sup> Transcript day 1 at p 5, ll 57-59.

Hepatitis C, Hypercholesterolaemia, heavy alcohol use, past suicide attempts and Type 2 diabetes. His most significant medical condition is liver failure and he is on a wide raft of medications. .

- [35] It would also appear that Mr Edwards had an extended admission to the PAH from 3 October to 15 October 2008 and that when he was discharged he had a raised level of ammonia, which remains refractory to treatment, which is an indication of continuing, severe liver failure. His medication at that time also included an anti-psychotic, Aripiprazole and Efexor. The notes indicate that he had been diagnosed with a major depressive episode, possibly with psychotic features, at the Woodford Correctional Centre. It would appear that Mr Edwards' current medical condition is quite poor and he has had a number of short admissions to the PAH due to loss of consciousness, as well as a six day admission for bacterial peritonitis in August 2009. He was discharged on 18 August 2009. Mr Edwards however became unwell again during the hearing and was transported to hospital by ambulance during the lunch adjournment.
- [36] The PAH file also indicates that Mr Edwards was seen on a number of occasions at the psychiatric unit.
- [37] Dr Henry indicated that if Mr Edwards was released from custody he would receive follow up care at the PAH but would also need considerable community support from the Aboriginal and Islander Support Services and from community nursing.

### **The Act**

- [38] Section 22 of the Act is 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 an order in the nature of a risk assessment order.*

- (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 the requirements mentioned in section 16(1)(da) and (db), if the existing order does not already include the 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).”*

[39] Mr Edwards pleaded guilty to the offences which comprise the contravention. I am therefore satisfied that he has contravened a requirement of his supervision order that he not commit an indictable offence or a sexual offence.

[40] Accordingly, as I am satisfied that Mr Edwards has contravened a requirement of a supervision order, then pursuant to s 22(2) of the Act, unless Mr Edwards satisfies the court, on the balance of probabilities, that, adequate protection of the community can, despite the contravention, be ensured by the existing order as amended, the court must in the case of an existing supervision order rescind it and make a continuing detention order.

[41] Clearly then, as I am satisfied that there has been a breach of a supervision order, the onus has shifted to the respondent to demonstrate, on the balance of probabilities,

that despite the contravention, adequate protection of the community can be ensured. Has Mr Edwards satisfied this onus?

### **Further evidence**

- [42] Section 22(3)(a) provides that, the court may act on any evidence before it, or that was before the court, when the existing order was made. I have had regard to the previous reports of the psychiatrists as well as the previous decisions which relate to Mr Edwards. Further evidence was also given at the hearing in relation to the support which would be available to Mr Edwards on his release. Oral evidence was given by Ms Jenny Lynas and Ms Tabitha Young and a letter as tendered from Dr Hayman.

#### ***The evidence of Ms Jenny Lynas***

- [43] At the hearing evidence was given by Ms Jenny Lynas who is the director of the High Risk Offender Management Unit within the Probation and Parole Section at Queensland Corrective Services (QCS). Ms Lynas gave evidence of the support which was provided to Mr Edwards on his release in June 2008 and stated that because he was released immediately after the Court of Appeal decision there had not been sufficient time for arrangements and supports to be put in place for Mr Edwards in the community on his release. Ms Lynas conceded that for a number of reasons his support in the community was inadequate on that occasion.

- [44] Ms Lynas stated that after Dr James gave evidence that specific supports needed to be put in place prior to Mr Edwards' release she had contacted the Arthur Gorrie Correctional Centre to ascertain what arrangements could be made in advance of Mr Edwards release. The health services coordinator advised her that she would make an appointment for Mr Edwards with Dr Hayman at the Inala Medical Clinic as he had previously taken care of Mr Edwards. She also indicated that she would liaise with the PAH outpatient services to organise appointments for him to see his specialists and she would also make appointments to transition his prison mental health management to Community Mental Health. The coordinator indicated that she could make these appointments within "the next four days".

#### ***The evidence of Ms Tabitha Young***

- [45] Ms Young is a social work support officer employed by the Aboriginal and Torres Strait Islander Legal Service. In her evidence at the hearing she indicated that she previously had contact with Mr Edwards on his release in June 2008. She had also recently made enquiries about the services which could be provided to Mr Edwards on his release. She indicated that in her view Alani was an appropriate service and she considered that Mr Edwards should be eligible for assistance. Alani was a service which provided clients with domestic assistance, social support, medical transport and day respite. She also stated that Alani could assist with palliative care down the track if it was required. An assessment however is required and it cannot be done until Mr Edwards is actually released and is in residence at his proposed accommodation with his aunty.
- [46] Ms Young indicated that if Mr Edwards was released into the community she would be involved in providing weekly support by way of weekly visits and phone calls as well as liaising with Corrective Services and other agencies. Ms Young stated that she would monitor Corrective Services and ensure the appointments which have

been referred to were in fact been made. She would also ensure that Mr Edwards had Centrelink benefits as well as a Medicare card.

- [47] Ms Young also stated that she could organise for a letter to be sent to Dr Hayman outlining Mr Edwards' needs and the importance of Dr Hayman assuming a co-ordination role in respect of his overall health care. Ms Young stated that she would in fact accompany Mr Edwards to the appointment with Dr Hayman so that she could discuss with him what was required for Mr Edwards' ongoing care. Ms Young indicated she was prepared to share a supervisory role in relation to Mr Edwards' ongoing care.
- [48] A letter was also tendered from Associate Professor Noel Hayman who is the clinical director of the Inala Indigenous health Service. Dr Hayman stated that he has known Mr Edwards for the past ten years and has regularly treated him in gaol. He stated;
- “I will support Travice if released. I can attend to all his medical needs including organising his specialist appointments at his hospital. The Inala Indigenous Health Service can attend to all his medical requirements.”<sup>15</sup>
- [49] Counsel for Mr Edwards submitted that there was sufficient evidence to indicate that if released under a supervision order the risk to the community could be managed by the existing order with appropriate amendments in relation to his telephone use.
- [50] In particular Counsel submitted that neither of the psychiatrists indicated that Mr Edwards would be an imminent risk on his release but rather the risk was that there would be a deterioration of his physical and mental health which would increase the risk of re-offending. Counsel also referred to the fact that the existing order adequately addressed the risk in relation to alcohol and drugs.

**Can the adequate protection of the community, despite the contravention, be ensured by the existing order as amended?**

- [51] Counsel for the Attorney General submits that the onus on the respondent has not been discharged and that Mr Edwards should be subject to a continuing detention order. Counsel submitted essentially that there was not sufficient certainty that the matters Dr James considered to be essential would in fact be in place prior to Mr Edwards' release into the community. Counsel submitted that because there was no evidence that the prerequisites were in place that a detention order must be made.
- [52] It is clear that when Mr Edwards was released in 2008 whilst he was supervised there was not any real support provided to him. It is clear that he was at times hungry and went without food for days. He could not afford medication that he required. He did not receive appropriate counselling or supportive programs to assist him to manage in a community which he had not been part of for almost 15 years. He suffered a depressive illness and found the experience on release very stressful. Added to this was the fact he lost two relatives he had been close to. Mr Edwards considered his situation was so hopeless he attempted suicide on a couple of occasions. Both psychiatrists indicate that Mr Edwards' contraventions were in fact an attempt to get back into gaol.

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<sup>15</sup> Associate Professor Noel Hayman, Clinical Director, Inala Indigenous Health Service, dated 22 September 2009.

- [53] I agree with the summary provided by Mr Edwards' counsel that<sup>16</sup>;  
"The psychiatrists are of the opinion that the offences constituting the contravention of the Supervision Order by the Respondent occurred in the context of a severe deterioration in the respondent's emotional and psychological state precipitated by the release from the structure of prison with circumstances where the Respondent had limited support and was further stressed by family matters and the death of his relatives and may have been significantly motivated by a wish on the part of the Respondent to return to prison."
- [54] I consider that those particular stressors should not be in operation if Mr Edwards were currently to be released to the community subject to a supervision order. First there has in fact been time to consider what supports are required and arrangements have been made to put those supports in place.
- [55] The necessary medical appointments will be made by Corrective Service within days with his specialist and with the PAH Mental Health Unit. Ms Young has indicated she will monitor that this is done and she will attend the appointment with Dr Hayman. She will also ensure that he is rapidly reconnected with Centrelink and that he has a Medicare card. Support has been arranged in that an assessment with Alani will be arranged on discharge. Ms Young has indicated she will monitor this care arrangement.
- [56] Dr Hayman has specifically stated that he will negotiate and coordinate Mr Edwards' medical care.
- [57] Apart from the contraventions which are comprised by the telephone calls Mr Edwards did not contravene the supervision order which was in place on his release in June 2008. He kept his appointments, he did not use alcohol and he abided by the curfew. It would appear from the psychiatrist's reports that Mr Edwards did not find the supervision order particularly onerous.
- [58] Both psychiatrists agree and it would seem clear that the risk to the community can be managed by a supervision order that has sufficient supports in place to ensure Mr Edwards receives some rehabilitation, counselling as well as a structured programme to manage his reintegration into the community. As Dr Beech states:<sup>17</sup>  
"However, I believe that with appropriate psychological and psychiatric care, appropriate emotional and psychological support and with the provision of further assistance, this potential increase in his risk could be mitigated. It would however necessitate quite intensive support or treatment."
- [59] I consider therefore, that the respondent has discharged the onus of proof required by the Act. I consider that on the balance of probabilities, the adequate protection of the community can be ensured, despite the contravention by a supervision order.
- [60] Whilst I consider that the current contravention is serious and concerning, I consider that the risk can be met by putting the appropriate strategies in place which can be addressed by the amended conditions. Clearly, Mr Edwards needs intensive support as well as supervision.

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<sup>16</sup> Written submissions of the respondent dated 21 September 2009 at [6].

<sup>17</sup> Report of Dr Michael Beech, dated 11 January 2009 p 11.

[61] Accordingly, pursuant to section 22(7), I am required to amend the existing supervision order in accordance with that section.

[62] There will therefore be an order in terms of the draft order annexed to these reasons.

**The Order of the Court is that:**

1. The Respondent be released subject to the supervision order made by the Court of Appeal on 20 June 2008, amended as follows.
2. The requirements of the supervision order made on 20 June 2008 be amended as follows:
  - a. Insert after requirement (x) the following:
    - (x)(A) if this accommodation is of a temporary or contingency nature, reasonable efforts must be demonstrated to secure alternative, viable long term accommodation to be assessed for suitability by Queensland Corrective Services;
    - (x)(B) whilst housed at any contingency or temporary accommodation, comply with any regulations or rules in place at this accommodation;
  - b. Replace requirement (xix) with the following:
    - (xix) attend on Associate Professor Noel Hayman on 2 October 2009 for the appointment at the Inala Indigenous Health Service for assessment and treatment;
    - (xix)(A) thereafter, attend the Inala Indigenous Health Service at such times as recommended by Associate Professor Noel Hayman or any other person authorised by Associate Professor Hayman;
    - (xix)(B) immediately upon release, take any steps necessary to confirm out-patient appointments with his treating specialists at the Princess Alexandra Hospital;
    - (xix)(C) as soon as practicable, attend the Princess Alexandra Hospital for examination and treatment by his treating specialist;
    - (xix)(D) thereafter, attend appointments with his treating specialists at such times as recommended by his treating specialists;
    - (xix)(E) and otherwise submit to medical, psychiatric, psychological or other forms of assessment and/or treatment as directed by an authorised Corrective Services officer.
  - c. Delete the words “agree to” in requirement (xxvi).
  - d. Insert after requirement (xxviii) the following:

- (xxix) advise your supervising officer of the make, model and phone number of any mobile phone owned, possessed or regularly utilised by you;
- (xxx) notify your supervising officer within 48 hours of any change to the make, model or phone number of any mobile owned, possessed or regularly utilised by you and provide details of this change;
- (xxxii) if requested by your supervising officer you will produce to your supervising officer any mobile phone owned, possessed or regularly utilised by you and permit examination by a Corrective Services officer;
- (xxxiii) except with prior written approval from your supervising officer, you are not to own, possess or regularly utilise more than one mobile phone;
- (xxxiiii) only use a mobile phone which provides the facility for access to an itemised call list, and to provide the call lists, or access to the call lists, as directed by a Corrective Services officer.

3. The affidavit of Jenny Lee Lynas filed on 22 September 2009 and the report of Associate Professor Noel Hayman (Exhibit 2) be placed in a sealed envelope and not opened without an order of this Court.

**Annexure**  
**Amended Supervision Order**

1. Upon release from prison, the respondent be subject to the following conditions until 20 June 2018, or further order of the Court.
  
2. The respondent must:
  - (i) be under the supervision of an authorised Corrective Services officer for the duration of the order;
  
  - (ii) report to an authorised Corrective Services officer at the Queensland Corrective Services Probation and Parole Office on the day of release from custody and at that time advise the officer of his current name and address;
  
  - (iii) report to, and receive visits from, an authorised Corrective Services officer at such times and at such frequency as determined by Queensland Corrective Services;
  
  - (iv) notify and obtain the approval of the authorised Corrective Services officer for every change of his name at least two business days before the change occurs;
  
  - (v) comply with a curfew direction or monitoring direction;
  
  - (vi) submit to and discuss with the authorised Corrective Services officer a schedule of his planned and proposed activities on a weekly basis or as otherwise directed;
  
  - (vii) notify the 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;

- (viii) 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;
- (ix) with the permission of Ms Sandra Bond, reside at her residence; otherwise reside at a place within the State of Queensland approved by a Corrective Services officer by way of a suitability assessment;
- (x) not reside at a place by way of short term accommodation including overnight stays without the permission of the authorised Corrective Services officer;
  - (x)(A) if this accommodation is of a temporary or contingency nature, reasonable efforts must be demonstrated to secure alternative, viable long term accommodation to be assessed for suitability by Queensland Corrective Services;
  - (x)(B) whilst housed at any contingency or temporary accommodation, comply with any regulations or rules in place at this accommodation;
- (xi) seek permission and obtain the approval of an authorised Corrective Services officer prior to any change of residence;
- (xii) not leave or stay out of Queensland without the prior written permission of an authorised Corrective Services officer;
- (xiii) not commit an offence of a sexual nature during the period of the order;
- (xiv) not commit an indictable offence during the period of the order;
- (xv) comply with every reasonable direction of an authorised Corrective Services officer;

- (xvi) respond truthfully to enquiries by authorised Corrective Services officers about his whereabouts and movements generally;
- (xvii) not have any direct or indirect contact with a victim of his sexual offences;
- (xviii) notify the authorised 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;
- (xix) attend on Associate Professor Noel Hayman on 2 October 2009 for his appointment at the Inala Indigenous health Service for assessment and treatment;
- (xix)(A) thereafter, attend the Inala Indigenous Health Service at such times as recommended by Associate Professor Noel Hayman or any other person authorised by Associate Professor Hayman;
- (xix)(B) immediately upon release, take any steps necessary to confirm out-patient appointments with his treating specialists at the Princess Alexandra Hospital;
- (xix)(C) as soon as practicable, attend the Princess Alexandra Hospital for examination and treatment by his treating specialist;
- (xix)(D) thereafter, attend appointments with his treating specialists at such times as recommended by his treating specialists;
- (xix)(E) and otherwise submit to medical, psychiatric, psychological or other forms of assessment and/or treatment as directed by an authorised Corrective Services officer;
- (xx) abstain from the consumption of alcohol for the duration of this order;

- (xxi) abstain from illicit drugs for the duration of this order;
- (xxii) take prescribed drugs as directed by a medical practitioner;
- (xxiii) not visit premises licensed to supply or serve alcohol, without the prior written permission of the authorised Corrective Services officer;
- (xxiv) submit to any form of drug and alcohol testing including both random urinalysis and breath testing as directed by the authorised Corrective Services officer;
- (xxv) attend upon and submit to assessment and/or treatment by a psychiatrist, psychologist, social worker, counsellor or other mental health professional as directed by the authorised Corrective Services officer at a frequency and duration which shall be recommended by the treating intervention specialist, the expense of which is to be met by Queensland Corrective Services;
- (xxvi) undergo medical testing or treatment (including the testing of testosterone levels by an endocrinologist) as deemed necessary by the treating psychiatrist and authorised Corrective Services officer, and permit the release of the results and details of the testing to Queensland Corrective Services, 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;
- (xxvii) permit any medical, psychiatric, psychological or other mental health practitioner 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;

- (xxviii) attend any program, course, psychologist 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;
- (xxix) advise your supervising officer of the make, model and phone number of any mobile phone owned, possessed or regularly utilised by you;
- (xxx) notify your supervising officer within 48 hours of any change to the make, model or phone number of any mobile owned, possessed or regularly utilised by you and provide details of this change;
- (xxxi) if requested by your supervising officer you will produce to your supervising officer any mobile phone owned, possessed or regularly utilised by you and permit examination by a Corrective Services officer;
- (xxxii) except with prior written approval from your supervising officer, you are not to own, possess or regularly utilise more than one mobile phone;
- (xxxiii) only use a mobile phone which provides the facility for access to an itemised call list, and to provide the call lists, or access to the calls lists, as directed by a Corrective Services officer.

3. The affidavit of Jenny Lee Lynas filed on 22 September 2009 and the report of Associate Professor Noel Hayman (Exhibit 2) be placed in a sealed envelope and not opened without an order of this Court.

Signed: . . . . .  
Registrar of the Supreme Court of Queensland