SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

ATKINSON J

No 11614 of 2009

ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND	Applicant
and	
GARRETT TIMOTHY BIELEFELD	Respondent

BRISBANE

..DATE 05/11/2009

ORDER

HER HONOUR: There is an application before the Court with regard to the respondent Garrett Timothy Bielefeld that he be detained in custody under the Dangerous Prisoners (Sexual Offenders) Act 2003 ("the Act") or released from custody under that Act subject to conditions.

The final hearing of that matter is not before me. What is before the Court today is an application that, pursuant to section 8(2)(a) of the Act, Mr Bielefeld undergo examinations by two psychiatrists named by this Court who are to prepare independent reports in accordance with section 11 of the Act.

That application is not opposed by the respondent and the psychiatrists proposed, Dr Donald Grant and Dr Michael Beech, are psychiatrists in whom the Court has confidence to prepare such reports. However, notwithstanding the lack of opposition, the Court can only make the order if it is satisfied that there are reasonable grounds for believing that Mr Bielefeld is a serious danger to the community in the absence of the final orders sought. There are ample grounds for so believing.

Mr Bielefeld is serving an eight year term of imprisonment for the offences of abduction, sodomy with a circumstance of aggravation and indecent assault with a circumstance of aggravation. He was only 19 at the time he committed the offences but his victim was a nine year old girl who was not previously known to him.

He had no previous sexual offending and a very minor previous criminal record. This appears to have been opportunistic offending engaged in when he was riding his motorbike in the Nerang State Forest and came across two young girls, one of whom had injured her foot.

She got onto the back of his motorbike on the understanding he was to give her a ride home. Her behaviour was perfectly understandable given that she was injured. However, he took advantage of her vulnerability and instead rode past her house before carrying her into the bushland and sexually assaulting and sodomising her leaving her to make her own way home. This is very serious offending and he was, unsurprisingly, sentenced to eight years' imprisonment. His application for leave to appeal against sentence was dismissed.

He pleaded guilty, albeit a late plea of guilty, but that was an acceptance at the time of the sentence of his guilt for these offences. What is of grave concern to the Court is that as a young man, with a conviction for sexually offending on only one occasion, Mr Bielefeld was obviously a very suitable candidate for programs designed to deter him from future sexual offending.

The aim of the Act is to protect the community and the protection of the community, particularly, vulnerable members of the community, is central to the Court's work in this area. There could be no other justification for detaining in custody or releasing subject to many conditions someone who has

completed their sentence previously imposed by the Court; but the evidence before me shows that the danger to the community represented by such an offender can also be reduced by the provision of the kinds of programs for dealing with sexual offenders that are available in Queensland prisons.

Notwithstanding that, the evidence shows that no proper attempt was made to ensure that the respondent received the programs in prison which would protect the community. Quite early in his sentence the respondent was recommended for the sex offender treatment program and a referral for an assessment regarding suitability had been forwarded to the co-ordinator of that treatment program. That is shown by memorandum dated 14 October 2003.

According to a memorandum on 4 November 2003 the respondent was informed that he had been waitlisted for a sexual offending treatment program as of 23 October 2003. Unfortunately, it appears from the evidence that nothing occurred with regard to that for a period of four and a-half years until 27 February 2008 when the offender was approached for a sexual offending program assessment and then recommended to participate in the Getting Started: Preparatory Program and the New Directions: Medium Intensity Sexual Offending Program.

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HER HONOUR: His eligibility date for release on parole was the 17th of August 2008. So it was not until his possible

parole release date was imminent that the process to engage him in sexual offending treatment programs was again reactivated. By that time he'd been an offender in prison for many years presumably endeavouring to deal with the consequences of his offending on his own.

He eventually commenced the Getting Started program on 15 September 2008 and completed it on 22 October 2008.

It can hardly be thought that the community is properly protected by such programs of such short duration not being offered to prisoners to complete for years and years into their sentence.

He was offered placement on the Medium Intensity Sexual Offenders Program on the 3rd of February 2009. He commenced it on the 17th of February 2009. However, a month into the program he asserted he was innocent of the sexual offences and was exited from the program as a result.

As far as I am aware there are no programs offered to offenders who assert their innocence. Of course, soon after he was imprisoned he had accepted his guilt and one must assume that the length of time that elapsed between sentencing and the offering of programs had some influence on his later assertion of innocence.

Given this sorry history and given the nature of the offending and what has occurred in custody the Court is satisfied that,

as it is required to be under section 8(1), there are reasonable grounds for believing that he is a serious danger to the community in the absence of an order made by the Court and I therefore make the orders sought as amended as discussed.

I should say that the affidavit material before me shows that the Queensland Corrective Services have made concerted efforts and have received additional Government funding to address the problem of the unacceptably long delays in offering programs to sexual offenders which will assist in the protection of the community.

However, the material before me does not disclose what the current waiting period is and whether or not the steps that have been taken are sufficient to deal with the number of sexual offenders in custody.

I should say that while, on one view, these programs may seem to be for the benefit of the offender the real benefit is to the community. While it may benefit an offender if he or she does not offend again it is the potential victims of the offender who really benefit from these programs and it is of grave concern to the Court if there is still a backlog in providing effective programs to protect the community.

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HER HONOUR: I'll make both draft orders which I'll initial and place with the file. The only amendment I've made is to paragraph 4 in the longer order to replace the words "seven days before the hearing" to the words "4 March 2010."

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