

SUPREME COURT OF QUEENSLAND

CITATION: *Attorney-General (Qld) v Williams* [2016] QSC 230

PARTIES: **ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND**
(applicant)
v
STEPHEN NATHANIEL WILLIAMS
(respondent)

FILE NO: BS3592 of 2010

DIVISION: Trial Division

PROCEEDING: Application for contravention of supervision order

DELIVERED ON: 10 October 2016 (ex tempore)

DELIVERED AT: Brisbane

HEARING DATE: 10 October 2016

JUDGE: Mullins J

ORDER: **Order in terms of the draft 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 – GENERALLY – where respondent contravened supervision order – where application pursuant to s 22 of the *Dangerous Prisoners (Sexual Offenders) Act* 2003 (Qld) – where respondent diagnosed with paedophilia attracted to females non-exclusive type, an anti-social personality disorder and poly-substance misuse – where applicant conceded the respondent could rely on psychiatric evidence to discharge the onus under the Act – whether adequate protection of the community could be ensured by release under the existing supervision order – where applicant released under supervision order

Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld), s 22

Attorney-General for the State of Queensland v Williams [2010] QSC 248, related
Attorney-General (Qld) v Williams [2014] QSC 192, related

COUNSEL: B H P Mumford for the applicant
J McInnes for the respondent

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

HER HONOUR: This is the final hearing of a contravention proceeding brought by the Attorney-General by application commenced on 3 May 2016 under section 22 of the Dangerous Prisoners (Sexual Offenders) Act 2003 (the Act) alleging that Mr Williams contravened requirement 42 of the supervision order made by me on 12
5 July 2010, as amended by Justice Applegarth on 10 August 2015. Requirement 42 is in these terms: requiring Mr Williams to “not access pornographic images that display photographs or images of children on a computer or on the internet or in any other format”. A warrant was issued for Mr Williams to be brought before the Court, which occurred on 3 May 2016, and he has been detained in custody since that time.

10 For the purpose of this contravention proceeding, he has been examined by psychiatrists, Dr Harden and Dr Beech. I also have the assistance of a report from the treating psychologist, Ms Lavers, who conducted treatment sessions with Mr Williams on 33 occasions between 19 August 2015 and 27 April 2016.

15 Mr Williams is 44 years old. I will not set out his criminal history in detail as it was set out in the reasons that I gave when I made the suppression order on 12 July 2010: *Attorney-General for the State of Queensland v Williams* [2010] QSC 248. Mr Williams did not perform well under the supervision order. I have ascertained that
20 from the reasons published by Justice Jackson in *Attorney-General (Qld) v Williams* [2014] QSC 192. In paragraphs 6 to 9 of those reasons, it shows that Mr Williams was arrested under a warrant pursuant to section 20 of the Act for a suspected contravention of the pornography conditions. In fact, he was charged with an
25 offence under the Commonwealth Criminal Code and, on 4 December 2012, was convicted of using a carriage service to access child pornography material. He was sentenced to a term of imprisonment of two years and six months with a further order that, upon giving security by recognisance in the sum of \$2000, he be released after serving nine months conditioned upon his being of good behaviour for a period of
30 four years.

It was not until 24 November 2014 that Justice Jackson released Mr Williams back into the community under the supervision order that had been made by me. In February 2015, Mr Williams was returned to custody for contravening requirement 38 of the supervision order. On 10 August 2015, Justice Applegarth released Mr
35 Williams back into the community under the supervision order with amendments. It appears that Mr Williams went reasonably well when he was first released, but with increasing stressors affecting him he engaged in conduct such as acquiring a second mobile phone and accessing child exploitation material again, which was reported to the supervising corrective service officers. He was investigated for contravening
40 requirement 42 of the supervision order again in April 2016 and it was that investigation that resulted in his being taken into custody on 3 May 2016.

45 For the purpose of the contravention proceeding, I need to determine whether, in fact, there was a contravention of the order. I have before me the affidavit of the senior case manager at the Probation and Parole Office, Townsville, on the basis of

whose evidence the contravention proceeding was commenced. There was no request on Mr Williams' behalf for that officer to be available for cross-examination. Mr Williams does not contest that he breached the order and leaves it to the court to make the findings that are open on the basis of the evidence of that senior case manager, as supported by another officer who was consulted during the course of the investigation about what Mr Williams may have informed her previously.

I find that on the balance of probabilities, having regard to the seriousness of the allegation made against Mr Williams in the particulars of the contravention, that Mr Williams was telling the truth when he admitted to the senior case manager on 28 April 2016 that he had accessed child exploitation material. Even though as the investigation was further pursued he sought to minimise his conduct, he never entirely withdrew the admission that he had made to the senior case manager.

For the purpose of this proceeding, each of Dr Harden and Dr Beech interviewed Mr Williams again. Those psychiatrists have interviewed or examined Mr Williams for the purpose of the Act on a number of occasions previously and Dr Harden, in particular, was able to provide the benefit of a longitudinal view of Mr Williams' conduct and the likely success of the supervision order in providing adequate protection of the community.

Dr Harden confirms his previous diagnoses of Mr Williams that he suffers from paedophilia attracted to females non-exclusive type, an anti-social personality disorder and poly-substance misuse that is in remission associated with imprisonment and supervision. On the basis of the actuarial instruments and professional judgment measures, Dr Harden estimates that Mr Williams' future risk of sexual re-offence is high, but remains of the opinion that, despite the contravention of the supervision order that is the subject of this application, continuation of a supervision regime with the associated monitoring and treatment as well as abstinence from substance abuse will reduce the risk to moderate.

In fact, Dr Beech, whose diagnoses of Mr Williams are in virtually identical terms, believes that the risk of offending on the part of Mr Williams in the absence of supervision which is high will be substantially reduced to below moderate with supervision. Both psychiatrists, therefore, support the release of Mr Williams on the supervision order again. The psychologist was a little more equivocal about Mr Williams' release under the supervision order, but did outline what treatment targets Mr Williams should aim for in order to reduce the risk of re-offending.

In recognition of the psychiatric evidence in this regard as well and the psychologist's opinion, Mr Williams has been wait-listed to participate in the Staying on Track Sexual Offending Maintenance Program. That can be done in the community whilst on a supervision order. It is relevant to the likely success of the supervision order that Mr Williams is prepared to participate in that program that's designed to assist sexual offenders who have previously completed a sexual offending program to maintain their intervention gains. The psychologist is also willing to provide treatment and psychological intervention to Mr Williams, if he is released under a supervision order.

In light of the psychiatric evidence, the Attorney-General makes the proper concession that Mr Williams can rely on the evidence of the psychiatrists to discharge the onus placed on him by subsection (2) of section 22 of the Act that, despite the contravention, adequate protection of the community can be ensured by
5 the release of Mr Williams under the existing supervision order. I still must be persuaded by the material, despite the concession of the Attorney-General. I am, however, satisfied that the terms of the existing supervision order, which is the supervision order that was made by me on 10 July 2010, as amended by Justice Applegarth on 10 August 2015, are appropriate for ensuring the adequate protection
10 of the community.

The psychiatric evidence does satisfy me, in conjunction with the willingness of Mr Williams to make a renewed effort on his release under the supervision order on this occasion to comply with the order, and the fact that there will be in place for him
15 appropriate programs and counselling to assist him in the ongoing compliance with the order. I, therefore, make the order in terms of the draft initialled by me, which effectively allows Mr Williams to be released and continue to be the subject of the supervision order made by me on 12 July 2010, as amended by Justice Applegarth on
20 10 August 2015.

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