

SUPREME COURT OF QUEENSLAND

CITATION: *Attorney-General for the State of Queensland v Lawrence (No 2)* [2020] QSC 81

PARTIES: **ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND**
(Applicant)
v
MARK RICHARD LAWRENCE
(Respondent)

FILE NO/S: BS 7468 of 2007

DIVISION: Trial Division

PROCEEDING: Application

DELIVERED ON: 16 April 2020

DELIVERED AT: Brisbane

HEARING DATE: 16 April 2020

JUDGE: Bowskill J

ORDERS: **The court having affirmed the decision made on 3 October 2008 that the respondent is a serious danger to the community in the absence of an order pursuant to Division 3 Part 2 of the *Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld)*, the court orders that:**

- 1. the continuing detention order made on 3 October 2008 be rescinded; and**
- 2. the respondent be released from custody, subject to the requirements of a supervision order in the terms set out in [18] below, for a period of 20 years from the date of his release.**

CATCHWORDS: CRIMINAL LAW – SENTENCE – SENTENCING ORDERS – ORDERS AND DECLARATIONS RELATING TO SERIOUS OR VIOLENT OFFENDERS OR DANGEROUS SEXUAL OFFENDERS – DANGEROUS SEXUAL OFFENDER – GENERALLY – making of supervision order

Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld)

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

SOLICITORS: Crown Law for the applicant
Legal Aid Queensland for the respondent

- [1] On 9 April 2020 I delivered reasons for judgment in the latest application by the Attorney-General for review of the continuing detention order made in relation to the respondent on 3 October 2008 under the *Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld): Attorney-General (Qld) v Lawrence* [2020] QSC 73.
- [2] For the reasons given, the court affirmed the decision made on 3 October 2008 that the respondent is a serious danger to the community in the absence of an order under division 3, part 2 of the Act; and determined that the discretion conferred by s 30(3) of the Act ought to be exercised by making an order that the respondent be released from custody subject to a supervision order.
- [3] A draft proposed supervision order was provided to the parties at the time of delivering the reasons, as it was considered important that the parties and their legal representatives, as well as officers of Queensland Corrective Services (QCS), be given an opportunity to consider the proposed supervision order before it was formally made.
- [4] The parties agreed upon amendments to clauses 9, 12, 38 and 39 of the draft order. I accept that those amendments are sensible and appropriate, and they have been incorporated in the order to be made today.
- [5] Some further amendments were requested by QCS “for management purposes”, but were not agreed to by the respondent. I have heard submissions from the parties about these matters this morning.
- [6] The first requested amendment relates to clauses 21 and 22 of the draft supervision order, which require the respondent to continue to see his psychologist and continue to engage in treatment with his psychiatrist, respectively. As presently drafted the clauses name the respondent’s current psychologist and psychiatrist, followed by the words “or another psychologist/psychiatrist [as the case may be] a Corrective Services officer directs you to see”. The amendment sought by QCS is the removal of the names of the current psychologist and current psychiatrist.
- [7] As explained by counsel for the applicant, QCS is concerned that naming the current psychologist and current psychiatrist is limiting. Consistent with the evidence before the court at the hearing of this review (see the reasons at [43] and [44]), it remains the position that QCS intends to ensure treatment by both Dr Steele and Dr Madsen continues to be provided for the respondent. QCS is concerned to ensure, however, that it is not limited to those particular medical practitioners, in the event circumstances change in the future.
- [8] It is important that QCS have the flexibility to direct the respondent to see another psychologist or psychiatrist, should the need arise. In my view, however, as clauses 21 and 22 are presently drafted that flexibility exists. If for any reason the respondent can no longer see or engage in treatment with the named psychologist/psychiatrist, the supervision order requires that the respondent see or engage in treatment with another psychologist/psychiatrist as directed by a Corrective Services officer. In the circumstances of this case it is desirable, in my view, for the clauses about psychological and psychiatric treatment to be more specific than is sometimes the case in supervision orders made under the Act, and that includes referring to the particular practitioners the respondent is presently

engaged with. I have therefore not incorporated the requested changes to clauses 21 and 22.

- [9] The next requested amendment is to clause 29, which is a requirement that the respondent “must live at a place approved by a Corrective Services officer” and “must obey any rules that are made about people who live there”. QCS requests that clause 29 be amended to specifically include the rules of the QCS contingency accommodation, where the respondent will likely reside for the foreseeable future. As explained by counsel for the applicant, the reason for the requested amendment is to avoid any ambiguity about the rules that must be obeyed.
- [10] In my view, clause 29 as presently drafted is not ambiguous. It provides in clear, plain and simple language that the respondent must live at a place approved by QCS, and must obey any rules that are made about people who live there. If the place QCS approves the respondent to live is the contingency accommodation, then the respondent must obey the rules that are made about people who live at that place.
- [11] On the other hand, the specific inclusion of one set of rules may inadvertently introduce a potential ambiguity, in the case of other sets of rules not expressly included. I have not incorporated this amendment.
- [12] The last requested amendment is to add an additional clause into the order, requiring that the respondent “not engage in or demonstrate interpersonal violence or aggression against any person, excluding acts of self-defence”.
- [13] However, in conveying this requested amendment, the applicant has also quite properly drawn the court’s attention to the decision of Davis J in *Attorney-General v Yeatman* [2019] 1 Qd R 89 at [23]-[27]. A similar clause was sought to be added to the supervision order in that case, save that it did not include the words “or aggression”, seemingly on the basis of a psychiatrist’s evidence in that case about the potential for confusion and uncertainty. Davis J found that it was not necessary to insert such a provision into the supervision order, saying, at [27]:
- “Any physical violence against any person would no doubt constitute an offence unless the respondent had a defence, and ‘self-defence’ is not the only defence to a charge of assault. If any ‘interpersonal violence’ committed by the respondent is authorised, justified or excused by law, then the respondent should not be liable to proceedings for breach of the supervision order consequent upon such violence. If any violence is not authorised, justified or excused by law, then the doing of violence would constitute the commission of an indictable offence and the respondent would be in breach of condition (xv) of the supervision order as it presently stands. The supervision order should not be amended.”
- [14] I agree with the reasoning of Davis J in *Yeatman*. If the respondent does engage in any conduct involving interpersonal violence, which is not authorised, justified or excused by law, then the doing of violence would constitute the commission of an indictable offence and the respondent would be in breach of clause 28 of the supervision order. As for the reference to “aggression” in the proposed clause, in my respectful view that is uncertain and apt to cause confusion.

- [15] In addition, an order in these terms was not included in the draft supervision order prepared prior to the hearing of the review application; nor was a clause in these terms or of this kind raised with any of the expert psychiatrists whose evidence was relied upon at the hearing. On the psychiatrists' evidence, the potential for escalation of the risk posed by the respondent is directly linked to a refusal by the respondent to receive the injections of anti-libidinal medication; and, more subtly, to the respondent disengaging with treatment, supervision or monitoring. Although the unmodified risk posed by the respondent potentially involves violent conduct, that risk is ameliorated to a significant extent by the effect of the anti-libidinal medication. As discussed at [60] and [61] of the reasons, one of the psychiatrists, Dr Arnold, did refer in her report to the potential for the respondent to engage in manipulative or controlling behaviour, and expressed the view that if he was to reoffend "it would be because he has manipulated another person into a position of serving his needs which may escalate to conflict". However, she also said that, given the effect of the anti-libidinal medication on his sexual drive, this would probably be a different kind of offence, not a sexual offence. There was not a focus, otherwise, by the psychiatrists on the potential for the respondent to engage in interpersonal violence or aggression.
- [16] For those reasons, I am not persuaded it is necessary to include this additional clause.
- [17] Accordingly, for the reasons given on 9 April 2020 and also set out above, having affirmed the decision made on 3 October 2008 that the respondent is a serious danger to the community in the absence of an order pursuant to division 3, part 2 of the Act, the court orders that:
1. the continuing detention order made on 3 October 2008 be rescinded; and
 2. the respondent be released from custody, subject to the requirements of a supervision order in the terms set out below, for a period of 20 years from the date of his release.

SUPERVISION ORDER

THE COURT is satisfied that Mark Richard Lawrence is a serious danger to the community. The rules in this order are made according to the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

THE COURT ORDERS THAT Mark Richard Lawrence be released from prison and must follow the rules in this supervision order for **20 years**, until **16 April 2040**.

TO Mark Richard Lawrence:

1. You are being released from prison but only if you obey the rules in this supervision order.
2. If you break any of the rules in this supervision order, the police or Queensland Corrective Services have the power to arrest you. Then the Court might order that you go back to prison.
3. You must obey these rules for the next 20 years.

Reporting

4. On the day you are released from prison, you must report before 4 pm to a Corrective Services officer at the Community Corrections office closest to where you will live. You must tell the Corrective Services officer your name and the address where you will live.
5. A Corrective Services officer will tell you the times and dates when you must report to them. You must report to them at the times they tell you to report. A Corrective Services officer might visit you at your home. You must let the Corrective Services officer come into your house.

To “report” means to visit a Corrective Services officer and talk to them face to face.

Supervision

6. A Corrective Services officer will supervise you until this order is finished. This means you must obey any reasonable direction that a Corrective Services officer gives you about:
 - a) where you are allowed to live;
 - b) rehabilitation, care or treatment programs;
 - c) using drugs and alcohol;
 - d) who you may not have contact with; and
 - e) anything else, except for instructions that mean you will break the rules in this supervision order.

A “reasonable direction” is an instruction about what you must do, or what you must not do, that is reasonable in that situation.

If you are not sure about a direction, you can ask a Corrective Services officer for more information, or talk to your lawyer about it.

7. You must answer and tell the truth if a Corrective Services officer asks you about where you are, what you have been doing or what you are planning to do, and who you are spending time with.
8. If you change your name, where you live or any employment, you must tell a Corrective Services officer at least two business days before the change will happen.

A “business day” is a week day (Monday, Tuesday, Wednesday, Thursday and Friday) that is not a public holiday.

Rules about anti-libidinal medication

9. You must receive injections of the anti-libidinal medication (Goserelin Acetate), at the dosage and the frequency as prescribed to you by your treating psychiatrist or doctor.

10. You must not change the type of anti-libidinal medication, or the dosage or frequency it is given to you, unless that is approved by your treating psychiatrist in consultation with a Corrective Services officer.
11. You must receive the injections of anti-libidinal medication from your treating psychiatrist or your general practitioner. You must let your treating psychiatrist and your general practitioner provide information to a Corrective Services officer about the administration of the anti-libidinal medication to you.
12. You must not stop receiving injections of the anti-libidinal medication. If you stop receiving injections of the anti-libidinal medication the police or Queensland Corrective Services may arrest you.

Regular testing of your testosterone levels

13. You must submit to a regular (monthly) blood test, under the supervision of your treating psychiatrist or your general practitioner, to check your testosterone levels.
14. A Corrective Services officer may also direct you to submit to a blood test at other times, to check your testosterone levels. You must follow this direction.
15. Your serum testosterone levels must be below 3 nmol/L.
16. You must let your treating psychiatrist and your general practitioner provide the results of the blood tests to a Corrective Services officer.

Rules about other medicine

17. You must tell a Corrective Services officer about any other medicine that a doctor prescribes (tells you to buy and take). You must also tell a Corrective Services officer about any over the counter medicine that you buy or have with you. You must do this within 24 hours of seeing the doctor or buying the medicine.
18. You must take prescribed medicine only as directed by a doctor.
19. You must not take any medicine (other than over the counter medicine) which has not been prescribed for you by a doctor.

Rules about seeing a doctor, psychiatrist and psychologist

20. You must choose and attend only one general practitioner. You must give the name and address of your general practitioner to a Corrective Services officer, within 24 hours of seeing them for the first time. In the case of an emergency, you may see another general practitioner.
21. You must continue to see your psychologist, Dr Lars Madsen (or another psychologist a Corrective Services officer directs you to see), at the times recommended by the psychologist or directed by a Corrective Services officer.
22. You must continue to engage in treatment with your psychiatrist, Dr Sarah Steele (or another psychiatrist a Corrective Services officer directs you to see), at the times recommended by the psychiatrist or directed by a Corrective Services officer.

23. You must develop a management plan with your psychologist and / or your psychiatrist to address any risk of committing a sexual offence. You must talk about this with a Corrective Services officer if they ask you to.
24. You must let a Corrective Services officer get information about any treatment you receive from your general practitioner, psychologist or psychiatrist. You must let the general practitioner, psychologist or psychiatrist provide information about your treatment to a Corrective Services officer and to each other.
25. You must obey any other direction a Corrective Services officer gives you about seeing a doctor, psychiatrist, psychologist, social worker or other counsellor, or about participating in any other treatment or rehabilitation program.
26. You must let Corrective Services officers get information about you from any other doctor, psychiatrist, psychologist, social worker or other counsellor you see, or treatment or rehabilitation program you participate in.

No criminal offences

27. You must not break the law by committing a sexual offence.
28. You must not break the law by committing an indictable offence.

Where you must live

29. You must live at a place approved by a Corrective Services officer. You must obey any rules that are made about people who live there.
30. You must not live at another place. If you want to live at another place, you must tell a Corrective Services officer the address of the place you want to live. The Corrective Services officer will decide if you are allowed to live at that place. You are allowed to change the place you live only when you get written permission from a Corrective Services officer to live at another place.

This also means you must get written permission from a Corrective Services officer before you are allowed to stay overnight, or for a few days, or for a few weeks, at another place.

31. You must not leave Queensland. If you want to leave Queensland, you must ask for written permission from a Corrective Services officer. You are allowed to leave Queensland only after you get written permission from a Corrective Services officer.

Curfew direction

32. A Corrective Services officer has power to tell you to stay at a place (for example, the place you live) at particular times. This is called a curfew direction. You must obey a curfew direction.

Monitoring direction

33. A Corrective Services officer has power to tell you to:
- a) wear a device that tracks your location; and
 - b) let them install a device or equipment at the place you live. This will monitor if you are there.

This is called a monitoring direction. You must obey a monitoring direction.

Employment or study

34. You must get written permission from a Corrective Services officer before you are allowed to start a job, start studying or start volunteer work.
35. When you ask for permission, you must tell the Corrective Services officer these things:
- a) what the job is;
 - b) who you will work for;
 - c) what hours you will work each day;
 - d) the place or places where you will work; and
 - e) (if it is study) where you want to study and what you want to study.
36. If a Corrective Services officer tells you to stop working or studying you must obey what they tell you.

Motor vehicles

37. You must tell a Corrective Services officer the details (make, model, colour and registration number) about any vehicle you own, borrow or hire. You must tell the Corrective Services officer these details immediately (on the same day) you get the vehicle.

A vehicle includes a car, motorbike, ute or truck.

Mobile phone

38. You are only allowed to own, use or have (even if you do not own it) one mobile phone. You must tell a Corrective Services officer the details (make, model, phone number and service provider) about any mobile phone you own, use or have within 24 hours of when you get or use the phone.
39. You must give a Corrective Services officer all passwords and passcodes for any mobile phone you own, use or have. You must let a Corrective Services officer look at the phone and everything on the phone.

Computers and internet

40. You must get written permission from a Corrective Services officer before you are allowed to use a computer, phone or other device to access the internet.
41. You must give a Corrective Services officer any password or other access code you know for the computer, phone or other device. You must do this within 24 hours of when you start using the computer, phone or other device. You must let a

Corrective Services officer look at the computer, phone or other device and everything on it.

42. You must give a Corrective Services officer details (including user names and passwords) about any email address, instant messaging service, chat rooms, or social networking sites that you use. You must do this within 24 hours of when you start using any of these things.

No contact with any victim

43. You must not contact or try to contact any victim(s) of a sexual offence committed by you. You must not ask someone else to do this for you.

“Contact” means any type of communication, including things like talking, texting, sending letters or emails, posting pictures or chatting. You must not do any of these things in person, by telephone, computer, social media or in any other way.

Rules about alcohol and drugs

44. You are not allowed to take (for example, swallow, eat, inject, or sniff) any alcohol. You are also not allowed to have with you or be in control of any alcohol.
45. You are not allowed to take (for example, swallow, eat, inject, smoke or sniff) any illegal drugs. You are also not allowed to have with you or be in control of any illegal drugs.
46. A Corrective Services officer has the power to tell you to take a drug test or alcohol test. You must take the drug test or alcohol test when they tell you to. You must give them some of your breath, spit (saliva), pee (urine) or blood when they tell you to do this.
47. You are not allowed to go to pubs, clubs, hotels or nightclubs which are licensed to supply or serve alcohol. If you want to go to one of these places, you must first get written permission from a Corrective Services officer. If you do not get written permission, you are not allowed to go.
48. You are not allowed to visit any business that is only licensed to supply alcohol. If you want to go to one of these places, you must first get written permission from a Corrective Services officer. If you do not get written permission, you are not allowed to go.

Speaking to Corrective Services about what you plan to do

49. You must talk to a Corrective Services officer about what you plan to do each week. A Corrective Services officer will tell you how and when to do this (for example, face to face or in writing).
50. You must also tell a Corrective Services officer the name of new persons you have met, and about any personal relationships you have started.

This includes: people who you spend time with, work with, make friends with, see or speak to (including on the phone or by using social media or the internet) regularly.

51. You may need to tell new contacts, or people you have a personal relationship with, about your supervision order and offending history. The Corrective Services officer will instruct you to tell those persons and the Corrective Services officer may speak to them to make sure you have given them all the information.

Contact with children

52. You are not allowed to have any contact with children under 16 years of age. If you want to have supervised or unsupervised contact with a child under 16 years of age you must first get written permission from a Corrective Services officer. If you do not get written permission, you are not allowed to have contact with the child.

“Contact” means any type of communication, including things like talking with them face to face, texting, sending letters or emails, posting pictures or chatting, using a telephone, computer, social media or in any other way.

“Supervised” means having contact with the child while another person is with you and the child.

“Unsupervised” means having contact with the child while there is no other person with you and the child.

53. If you have any repeated contact (that is, more than one time) with a parent, guardian or carer of a child under the age of 16, you must:
- a) tell the person(s) about this supervision order; and
 - b) tell a Corrective Services officer the details of the person(s).

You must do this immediately. This means you have to tell the person, and tell a Corrective Services officer, on the same day you have contact with the person.

54. Queensland Corrective Services has power to give information about you, and about this supervision order, to any parent, guardian or caregivers that you have contact with.
55. Queensland Corrective Services also has power to give information about you, and about this supervision order, to an external agency (such as the Department of Child Safety).
56. You must not:
- a) attend any school or childcare centre;
 - b) be in a place where there is a children’s play area or child minding area;
 - c) go to a public park;
 - d) go to a shopping centre;
 - e) join any club or organisation in which children are involved;
 - f) participate in any club or organisation in which children are involved.

If you want to do any of these things, you must first get written permission from a Corrective Services officer. If you do not get written permission, you cannot do any of these things.

57. You must not collect photos / videos / magazines which have images of children in them. If you have any you may be asked to get rid of them by a Corrective Services officer.

Rules about child exploitation material and pornography

58. You must not get or have child exploitation material or images of children on a computer or phone from the internet.
59. You must not get or have any pornographic images on a computer or phone from the internet or magazines, without written approval from a Corrective Services officer. Your treating psychologist will provide advice regarding this approval.