

In the matter of

**CLINTON EARL LEE STOCKMAN
(Applicant)**

SECTION 193A CORRECTIVE SERVICES ACT 2006

PROCEEDING: An application for parole

DELIVERED ON: 19 June 2018

DELIVERED AT: Brisbane

HEARING DATE: 10 May 2018

MEETING DATE: The Board met to further consider the matter on 14 June 2018

CHAIRPERSON: Mr Michael Byrne QC, President of Parole Board Queensland

ORDER: The Board is satisfied the applicant has cooperated satisfactorily in the investigation of the offence to identify the victim's location

Application for parole order

- [1] A prisoner may apply for a parole order under s 180 of the *Corrective Services Act 2006* (Qld) ('CSA'). After receiving a prisoner's application for a parole order, Parole Board Queensland ('the Board') must decide to grant the application or to refuse to grant the application.¹

Application for a parole order where victim's body or remains have not been located

- [2] Pursuant to s 193A(1)–(2) of the CSA the Board must refuse to grant an application for parole where the applicant is serving a period of imprisonment for a homicide offence² and --
- (a) the body or remains of the victim of the offence have not been located; or
 - (b) because of an act or omission of the applicant or another person, part of the body or remains of the victim has not been located.

unless the Board is satisfied that the applicant has cooperated satisfactorily in the investigation of the offence to identify the victim's location.

Section 193A(8) of the CSA states:

victim's location means-

- (a) the location, or the last known location, of every part of the body or remains of the victim of the offence; and
- (b) the place where every part of the body or remains of the victim of the offence may be found.

Amendment to CSA

- [3] Section 193A was inserted into the CSA by s 4 of the *Corrective Services (No Body, No Parole) Amendment Act 2017* (Qld) ('the Amendment Act'), which was assented to and commenced on 25 August 2017.
- [4] This amendment implemented Recommendation 87 of the Queensland Parole System Review Report ('the Report') which recommended the establishment of a No Body, No Parole policy in Queensland.
- [5] The Report acknowledged that
- ...withholding the location of a body extends the suffering of victim's families and all efforts should be made to attempt to minimise this sorrow.*
- [6] The Amendment Act is designed to help victims' families and aims to encourage and incentivise prisoners to whom s 193A applies to assist in finding and recovering the remains of a victim by making parole release contingent on his/her satisfactory

¹ *Corrective Services Act 2006* (Qld) ('CSA'), s 193(1).

² Relevant to this application, a 'homicide offence' as defined in s 193A(8)(a) of the CSA includes the offence of manslaughter (ss 303 and 310 of the *Criminal Code*) and misconduct with regard to corpses (s 236(2) of the *Criminal Code*).

cooperation in the investigation of the homicide offence to identify the victim's location.³

[7] As stated in the Report

...such a measure is consistent with the retributive element of punishment. A punishment is lacking in retribution, and the community would be right to feel indignation, if a convicted killer could expect to be released without telling what he did with the body of the victim.

Application of s 193A of the CSA

[8] Section 193A(7)(a) of the CSA provides that, in determining whether the applicant has 'cooperated satisfactorily' in the investigation of the offence to identify the victim's location, the Board must have regard to:

(i) a written report of the Commissioner of Police stating whether the applicant has cooperated in the investigation of the offence to identify the victim's location and, if so, an evaluation of:⁴

(a) the nature, extent and timeliness of the applicant's cooperation; and

(b) the truthfulness, completeness and reliability of any information or evidence provided by the applicant in relation to the victim's location; and

(c) the significance and usefulness of the applicant's cooperation; and

(ii) any information the Board has about the applicant's capacity to give the cooperation; and

(iii) the transcript of any proceeding against the applicant for the offence, including any relevant remarks made by the sentencing court.

[9] Further, s 193A(7)(b) of the CSA provides that the Board may have regard to any other information the Board considers relevant.

[10] When determining whether the applicant has 'cooperated satisfactorily' in the investigation, the Board is to give the phrase 'cooperated satisfactorily', as part of a statutory provision, the meaning that the legislature is taken to have intended it to have.

Ordinarily, that meaning (the legal meaning) will correspond with the grammatical meaning of the provision. But not always. The context of the words, the consequences of a literal or grammatical construction, the purpose of the statute or the canons of construction may require the words of a legislative provision to be read in a way that does not correspond with the literal or grammatical meaning.⁵

³ Explanatory Notes, Corrective Services (No Body, No Parole) Amendment Bill 2017, page 1.

⁴ CSA (Qld) s 193A(7)(a) read in conjunction with s 193A(6).

⁵ *Project Blue Sky Inc v Australian Broadcasting Authority* 194 CLR 355, 384 [78].

[11] The Board formed the view that, in these circumstances, the legal meaning (in accordance with the legislative intention referred to in [6]) of 'cooperated satisfactorily' corresponds with the grammatical meaning of that phrase.

[12] The Board determined that the grammatical meaning of 'cooperated satisfactorily' may be derived with reference to the *Shorter Oxford English Dictionary*, which provides the following definitions:

'satisfactory' - 'sufficient, adequate; convincing'.⁶

'cooperate' - 'act jointly with another (in a task, to an end)'.⁷

The present application

[13] On 6 March 2018 the applicant filed his application for parole ('the application'). The application was received by the Board on 9 March 2018. The application was listed for hearing on 10 May 2018.

[14] The applicant attended the hearing in person. At the hearing the applicant was not legally represented. On the day prior to the hearing the applicant was attended upon by a senior lawyer from Legal Aid Queensland. On the day of the hearing special provision was made for the applicant to have a copy of all material which was then available, as well as an opportunity to consider that material.

[15] Subsequent to the hearing the applicant was represented by Legal Aid Queensland, who were provided with a copy of all material considered by the Board.

[16] On 13 June 2018, Counsel representing the applicant provided detailed written submissions. It was conceded by the applicant that s 193A of the CSA applies to the prisoner's application for parole.⁸

Background

[17] On 9 February 2018 the applicant entered pleas of guilty to the offences of manslaughter⁹ and misconduct with regard to corpses¹⁰. On 23 February 2018 the applicant was sentenced to an effective term of six (6) years imprisonment with an order that the date the applicant is eligible for parole be fixed at 23 February 2018. The applicant was co-jointly sentenced with Liam Rawhiti Bliss ('Bliss') who pleaded guilty to the offence of manslaughter.

[18] In sentencing the applicant and Bliss, Boddice J provided the following precis of the killing of the deceased and the disposal of the body:

"On the evening of 6 July 2015, Greg Duffy was viciously assaulted by a group of men. He died as a result of that assault. It was a planned attack in retaliation for the deceased's earlier theft of cannabis from one of those men. The assault occurred, following an arranged meeting between the deceased

⁶ Oxford University Press, *Shorter Oxford English Dictionary* (5th ed, Volume 2), 2674.

⁷ Oxford University Press, *Shorter Oxford English Dictionary* (5th ed, Volume 1), 513.

⁸ Written submission on behalf of the applicant at [3].

⁹ *Criminal Code Act 1899* (Qld), ss 303 and 310.

¹⁰ *Criminal Code Act 1899* (Qld), s 236(2).

and the person from whom he had stolen the cannabis. That person had arranged for the other men to participate in this act of retribution. The deceased was taken to an isolated location where he was assaulted by some of the men present.

The assault lasted for one to two minutes. After about 30 seconds, the deceased was silent. Evidence of injuries suggest the deceased was alive at the cessation of the assault; however, he was rendered unconscious shortly after its commencement. During the assault, the deceased was struck with a number of items, as well as being kicked repeatedly. After the assault ended, zip ties were placed around the deceased's hands so that they were effectively handcuffed behind his back. After this, one of the men punched the deceased in the back of the head four times. The deceased did not move in response to those punches.

The group of men then left the area. The weapons and other items were disposed of as they returned back to their residences. The deceased was taken back to a truck yard. He was placed in a shed and attempts were made, unsuccessfully, to rouse him. After a number of hours, it was realised the deceased was not breathing. Thereafter, the organiser of the assault took steps to dispose of the deceased's body. Initially, the body was wrapped in a tarpaulin and placed into the bin of a truck. Steps were taken to dispose of the deceased's belongings. The following morning, 7 July 2015, the deceased's body was placed in a plastic drum, retrieved from a storage shed in northern New South Wales. It was taken to a location where it was placed in a pre-prepared pyre of felled timber. Diesel fuel was poured over the body and surrounding timber. Other items, including clothes from the assault and the clothes that people there were wearing, were placed onto the fire. **The fire was tended for some hours until there was no sign of the deceased's corpse.**¹¹ [Emphasis added]

[19] The applicant was sentenced pursuant to s 13A of the *Penalties and Sentences Act 1992* (Qld). The applicant's cooperation with the authorities was described by the learned sentencing Judge as "*significant cooperation pursuant to section 13A with the consequence of a real risk to himself in the past and in the future...*".

[20] On 29 May 2018 three further persons pleaded guilty and were sentenced for their involvement in the killing of Mr Duffy. Aaron John Crawford pleaded guilty to manslaughter¹² and misconduct with regard to corpses¹³ and was sentenced to an effective term of ten (10) years imprisonment.¹⁴ Lionel John Patea pleaded guilty to murder¹⁵ and was sentenced to life imprisonment with an order that he not be released from prison before 29 May 2048. Nelson Andrae Patea pleaded guilty to

¹¹ *The Queen v Liam Rawhiti Bliss and Clinton Earl Lee Stockman*, Supreme Court of Queensland, 23 February 2018, Boddice J, Transcript of Proceedings, page 2 line 2 to line 32. [emphasis added]

¹² *Criminal Code Act 1899* (Qld), ss 303 and 310.

¹³ *Criminal Code Act 1899* (Qld), s 236(2).

¹⁴ The conviction for the offence of manslaughter was declared a conviction for a serious violent offence. Pursuant to section 182 of the CSA the prisoner must serve eighty (80) percent of the term of imprisonment.

¹⁵ *Criminal Code Act 1899* (Qld), ss 302 and 305.

manslaughter¹⁶ and was sentenced to eight (8) years imprisonment with an order fixing parole eligibility at 11 January 2019.

[21] In sentencing Aaron John Crawford, Lionel John Patea and Nelson Andrae Patea, *R v Crawford, Patea & Patea* [2018] QSC 122, Burns J referred to the cooperation of the applicant:

[23] Mr Stockman, came under suspicion at an early stage. He took part in a formal interview on 16 July 2015, in which he denied any involvement. He then contacted police on 21 September of the same year and said he wished to speak to them. He took part in a further interview at that time where he indicated his involvement, but he withheld some information. He provided a written statement two days later and an addendum statement on 15 November 2015. He also took part in two recreations arranged by police at the truck yard, as well as at Busby's Flat, and provided a further addendum statement on 28 April 2016. Lastly, on 4 May 2017, in a final statement to police, he made a number of admissions in relation to assisting with the disposal of Mr Duffy's body.

The submissions of the applicant

[22] Counsel for the applicant in his written submissions¹⁷ conceded that although the relevant cooperation of the applicant might have been given sooner, the applicant has now done all he possibly can to cooperate in the investigation of the offence to identify the 'victim's location'. It was submitted on behalf of the applicant that the Board would be satisfied the prisoner has cooperated satisfactorily, as evidenced by:¹⁸

- the applicant not only telling investigating police about the 'victim's location' but that he attended that place with them;
- the applicant directing police to the 'victim's location';
- two days later the applicant again travelled to the location and gave a more specific indication to the police of his knowledge of the 'victim's location' at that place;
- the applicant told police of the changes to the property since he was last there, with that information being corroborated;
- the applicant making numerous statements against his own interests including his admission to assisting one of the co-offenders place "*the deceased body onto a pile of cut down trees*";¹⁹ and
- the applicant admitted to being a party to keeping the fire that led to the disintegration of the victim's body going, by "*throwing more timber onto it*".²⁰

[23] Ultimately, the submission advanced by Counsel on behalf of the applicant is that the criticism in the report by the Commissioner of Police that, "*the information provided by [the applicant] has not resulted in the location of Mr Duffy's body*", is unfair as the truth of the matter is there is nothing left of the body of the deceased to find.²¹

¹⁶ *Criminal Code Act 1899* (Qld), ss 303 and 310.

¹⁷ Written submission on behalf of the applicant at [8] - [10].

¹⁸ *Ibid* at [12] - [16].

¹⁹ Applicant's statement to police dated 4 May 2017 at [65].

²⁰ *Ibid*.

²¹ *Ibid* at [17]

[24] This submission is consistent with the aforementioned sentencing remarks of Boddice J at paragraph [18] of these reasons. Further support for the ultimate submission advanced on behalf of the applicant is found in *R v Crawford, Patea & Patea* [2018] QSC 122, where Burns J found:

[20] Mr Duffy's body was wrapped in a tarpaulin. When doing so, Stockman noticed that Mr Duffy had a black eye, which is of course evidence of Mr Duffy having been alive subsequent to the initial assault. Stockman helped you, Mr Crawford, put the deceased's body into the bin of the truck, and on the following day – that is, 7 July 2015 – you phoned Stockman, Mr Crawford, and told him there was “work to be done”. The two of you drove to a storage shed somewhere in northern New South Wales, where two plastic drums were retrieved. You, Mr Crawford, explained to Stockman that the drums would be used to cover the deceased's body so that it would not be crushed when the truck was loaded with rock.

[21] The loading of the truck with rock occurred on the following day. About 10 tonnes of crushed rock was loaded into the truck on top of the drums that covered Mr Duffy's body. You, Mr Crawford and Stockman then proceeded to a place known as Busby's Flat. You drove the truck into the property, and both you, Mr Crawford and Mr Stockman emptied the rock from the truck, and then removed Mr Duffy's body and placed it on a pyre of felled timber. You poured diesel fuel over his body and lit the fire. **You tended the fire for a number of hours until there was no sign left of Mr Duffy's body.** [emphasis added]

[25] Further evidence in support of the submissions on behalf of the applicant is provided by Gavin Stewart Russell ('Russell') who was residing at the property when Mr Duffy's body was disposed. In a statement dated 23 March 2016, Russell stated:²²

“The area where the main fire was burning on this day has since been bulldozed and a new road put in near where this fire had been burning. A new dam was also put in near this area and a lot of soil was moved to make an acoustic wall on the property. All of this work would have been done between September and December, 2015.

On the 23rd day of February, 2016 New South Wales and Queensland Police attended at the property with a crime scene warrant. I showed Police an area where the main fire had been burning on the 8th day of July, 2015. This area was on the side of a hill approx.(sic) 40 – 50 metres from the kitchen area.

I was informed by police that they had information that the body of Gregory Duffy had been bought (sic) to this location wrapped in a tarp on this date in the bin of the Mack tipper truck and burnt on a fire.

I told them that I did not see a body but that I can recall seeing a grey tarp on that day.

²² This is consistent with what was relied upon by the prosecution and tendered as part of the statement of facts in the sentence hearing of Stockman and Bliss.

The fire that I showed the police and that I saw Aaron [Crawford] and Clint [Stockman] put the rubbish and the tarp on would have continued to burn for 2 or 3 days after they had left."

[26] In an addendum statement dated 2 June 2016, Russell expanded on the fire:

"I have been informed that Aaron stated that they put a body and the plastic drums onto a pile of wood. This pile of wood was as tall as Aaron. It was large logs and trees. Aaron then got a 20 litre drum and siphoned diesel from the truck and the fire was then lit.

I can state that there were large piles of wood on the property in a number of locations as a result of previous logging operations."

Conclusion

[27] The criticism contained in the report of the Commissioner of Police regarding the applicant's cooperation is that it wasn't until May 2017, twenty-two (22) months after the deceased was killed, that he provided a complete account of the homicide and disposal of the deceased's body.

[28] However, timeliness²³ is only one of the factors the Board must evaluate. Equally relevant factors include the nature and extent of the applicant's cooperation,²⁴ as well as the truthfulness, completeness and reliability of any information or evidence provided by the applicant,²⁵ and the significance and usefulness of that cooperation.²⁶

[29] It is clear on the material provided to the Board that the applicant provided significant and useful cooperation which was truthful, complete and reliable. That cooperation included the confession to being a party to the killing of the deceased and the identification of the victim's location.

[30] In their separate sentencing remarks, both Boddice J and Burns J found the applicant cooperated in the investigation into the homicide of the deceased and sentenced various parties to the killing of the deceased, including the applicant, on the basis of that cooperation, including the applicant's identification of the victim's location.

[31] Accordingly, in this matter the Board is satisfied the applicant has cooperated satisfactorily in the investigation of the offence to identify the deceased's location.

²³ CSA, s 193A(7)(a)(i)(a).

²⁴ Ibid.

²⁵ CSA, s 193A(7)(a)(i)(b).

²⁶ CSA, s 193A(7)(a)(i)(c).