

To be inserted by Court

Case Number:

Date Signed:

FDN:

ORDER – CONFIRMATION, VARIATION OR CANCELLATION OF FORMER SECTION 293A ORDER

SUPREME COURT OF SOUTH AUSTRALIA
CRIMINAL JURISDICTION

[FULL NAME]
Applicant

v

[FULL NAME]
Respondent

Introduction

Hearing

Hearing Location: *[suburb]*
[Hearing date] *[Listed starting time]*

Hearing type:

Supreme and District Court only

[Actual hearing start time] - *[Actual hearing end time]*

[Presiding Officer]

Appearances

[Applicant Appearance Information]
[Respondent Appearance Information]

Remarks

(a) On *[date]* in the Supreme Court of South Australia, *[the]* original Respondent *[full name]* ('the Subject') was found not guilty of the below offence[s] by reason of insanity, and the Court ordered pursuant to section 292(2) of the *Criminal Law Consolidation Act 1935* (as in force prior to 2 March 1996) that the Subject be detained until further order of the Court.

i. *[counts in numbered sub-paragraphs]* provision for multiple

(b) On *[date]*, by order of the Court pursuant to section 293A(7)(a) of the *Criminal Law Consolidation Act 1935* (as in force prior to 2 March 1996) the Subject was released on licence subject to the conditions specified in the licence;

(c) *[Other]* provision for multiple

- (d) Upon this Application made to the Court on [date] for a [variation/cancellation/review] of the release upon licence under section [293A(7)(b)/293A(15)/293A(17)] of the *Criminal Law Consolidation Act 1935* (as in force prior to 2 March 1996), the Court has had regard to and considered the matters referred to in sections 293A(9), (11), (13), (14) of the Act.

Order

Date of Order: [date]

Terms of Order

The Court orders that:

- 1. The Subject is released on licence pursuant to s 293A(7)(a) of the *Criminal Law Consolidation Act 1935* (as in force prior to 2 March 1996) on the conditions as set out below.
- 2. The present terms of the release on licence made pursuant to s 293A(7)(a) of the *Criminal Law Consolidation Act 1935* (as in force prior to 2 March 1996) are confirmed.
- 3. The conditions of the release on licence are varied pursuant to section s 293A(7)(b) of the *Criminal Law Consolidation Act 1935* (as in force prior to 2 March 1996) so that the conditions of the Subject's release on licence now read in their entirety as set out below.
- 4. The release on licence made by [name of Judicial Officer] on [date] is cancelled pursuant to s 293A(15) of the *Criminal Law Consolidation Act 1935* (as in force prior to 2 March 1996) due to a contravention or likely contravention of a condition of the licence.
- 5. The Detention Order made by the Court on [date] is discharged pursuant to s 293A(18) of the *Criminal Law Consolidation Act 1935* (as in force prior to 2 March 1996).
- 6. The Application for a [release on licence/variation of the conditions of the release on licence/cancellation of the release on licence/discharge of a detention order] is refused.
- 7. In the event the Clinical Director ('the Director') of the South Australian Forensic Mental Health Services, or a consultant psychiatrist nominated by him or her ('the nominee'), or the Presiding Member of the Parole Board, or the Presiding Member's nominee, is of the opinion that:
 - the Subject has contravened, or is likely to contravene, a condition of this order
 - the Subject is in need of a level of security that cannot be provided by [name of unit/team] at [name of facility],
 that person is forthwith to notify the Director of Public Prosecutions of that opinion.
- 8. If the Director of Public Prosecutions is notified in accordance with order 7 above, the Director of Public Prosecutions may forthwith make an Application to this Court for a review of the Supervision Order which in cases of urgency may be made at short notice.
- 9. The Subject, the Director of Public Prosecutions, the Presiding Member of the Parole Board or their nominee shall be at liberty to apply at any time and from time to time, as they may be advised, at short notice to the other parties to vary or revoke this order.
- 10. [Other] option to enter free text, provision for multiple entries

Conditions of Licence

General

- 1. The Subject must be of good behaviour and obey the conditions of this Order.

Supervision

- 2. The Subject be under the care of a responsible person ('the Supervising Officer') nominated by the Parole Board and the Subject must obey their reasonable directions.
- 3. The Subject be supervised by a Department for Correctional Services Community Corrections Officer ('the Supervising Officer') and the Subject must obey their reasonable directions about non-medical matters.

- 4. The Subject be under the care of the Clinical Director ('the Director') of the South Australian Forensic Mental Health Service ('the Service') or a consultant psychiatrist nominated by the Director ('the nominee'), and obey their reasonable directions about medical and psychiatric treatment and medication; and further that the Subject be psychiatrically reviewed on a regular basis as directed by the Director or the nominee.
- 5. If the Director or nominee thinks it appropriate, management of the treatment and monitoring of the Subject's mental health can be transferred to a key worker at one of the regional mental health teams closest to their place of residence, or any other designated service provider ('the nominee'), and they must obey their reasonable directions about the treatment and monitoring of their mental health.
- 6. If the Director or nominee thinks it appropriate, management of the treatment and monitoring of the Subject's mental health can be transferred to a local Community Mental Health Team, who shall case manage them in conjunction with the NDIS funded service provider [*and a NDIS Aboriginal Cultural Advisor* delete if not applicable] and they must obey their reasonable directions about the treatment and monitoring of their mental health.

Residence (place of living)

- 7. The Subject must reside at an address nominated or approved by the Supervising Officer and must not change residence without prior approval from the Supervising Officer.
- 8. The Subject must live at [*name of facility and address*] and must not to leave that facility unless authorised by the Director or the nominee. While they live at [*name of facility*], they must cooperate with the rehabilitation program.
- 9. The Subject is allowed, at the discretion of the Director or nominee, periods of leave away from [*name of facility*] for medical treatment [*or rehabilitation*] approved by the Director or the nominee, but only if they are escorted at all times during such periods of leave by at least [*number*] staff member(s) employed or nominated by the Service.
- 10. The Subject is allowed periods of accompanied and unaccompanied day and overnight leave away from [*name of facility*] for rehabilitation reasons, as approved by the Director or nominee.
- 11. After a period of successful overnight leave, the Subject, or the Director or the nominee may apply to the Court for a variation of these conditions so that they are discharged from [*name of facility*] to reside in the community. Such application may not be made for at least 6 months from the date of this Order.
- 12. The Subject must stay at the required address [*between the hours of [time] and [time]*] and the Subject must be at an entrance to that address if asked to by the Supervising Officer or a Police Officer, unless absent:
 - a. for emergency medical or dental treatment, to avoid or reduce a serious risk of death or injury to the Subject or another; or
 - b. for any other reason approved by the Supervising Officer.
- 13. For a period of [*no. of years/months/days*] from the date of this Order the Subject must stay at the approved place of residence [*between the hours of [time] and [time]*] and be at an entrance to that address if asked to by the Supervising Officer or a Police Officer, or any other person authorised to carry out a curfew check, unless absent:
 - a. for emergency medical or dental treatment; or
 - b. to avoid or reduce serious risk of death or injury to themselves or another; or
 - c. for any other reason approved by the Supervising Officer.
- 14. If an emergency requires the Subject to move to another facility or address, they must not move until they have obtained the permission of a senior officer from the NDIS funded service provider; and the senior officer of the NDIS funded service provider must advise the Court immediately of any change of residential address.
- 15. The Subject must wear an electronic transmitter and obey the Department for Correctional Services rules of electronic monitoring, including charging the transmitter daily and any other lawful directions given to them by the Supervising Officer [*or Parole Board*].

Programs

16. The Subject's case be managed by the [name of unit/team] at [name of facility] and the Subject must obey the reasonable directions of that team or any person authorised by that team to give such directions, particularly for going to appointments nominated by that team or the authorised person.
17. The Subject's case be managed by the Forensic Community Mental Health Team, [in conjunction with the NDIS funded service provider delete if not applicable] [and a NDIS Aboriginal Cultural Advisor delete if not applicable] and the Subject must obey the reasonable directions of that team, particularly for going to appointments nominated by the team[s] [or advisor].
18. The Subject must attend for assessment and, if assessed as suitable, go to and complete any:
- a. psychiatric, psychological or medical assessment, treatment, counselling, or therapy programs, including for drug abuse;
 - b. educational, vocational or recreational programs;
 - c. intervention program;
 - d. programs and projects,
- that the Supervising Officer [or Parole Board] reasonably directs.
19. The Subject must obey the reasonable directions of the Supervising Officer and as recommended by the NDIS funded service provider with respect to:
- a. counselling;
 - b. psychological treatment;
 - c. going to rehabilitation assessments;
 - d. vocational or occupational programs;
 - e. drug and alcohol rehabilitation programs.
20. The Subject must be referred to a clinical psychologist for cognitive-behavioural therapy to assist, particularly in the area of anxiety management and treatment.
21. The Subject must obey in every respect any treatment plan prepared or directed by the Supervising Officer [or the Director or nominee].
22. The Subject must continue to receive their medication current at the date of this Order. No alteration or reduction of that medication is allowed without the prior approval of the Director or the nominee.
23. The Subject must submit to random blood screening at the direction of the Director or the nominee, to ensure that medication is taken as prescribed.

Drugs and Alcohol

24. The Subject must not use, possess (have), or consume:
- a. alcohol
 - b. any drug, including any narcotic or psychotropic drug, that is not prescribed by a medical doctor registered in South Australia or legally available in another way, and then only at the prescribed or recommended dosage
 - c. [other]

and the Subject must have any tests that are needed to check if they are obeying these orders as directed by the Supervising Officer [or Parole Board].

The Subject must sign all needed forms and obey all of the testing procedures.

Firearms

25. The Subject is prohibited from possessing a firearm (gun of any sort), ammunition (both within the meaning of the *Firearms Act 2015*) or any part of a firearm.
26. The Subject must submit to such tests (including testing without notice) for gunshot residue as may be reasonably required by the Supervising Officer or a member of the South Australian Police.
27. The Subject must hand in any firearm, ammunition or any part of a firearm owned or possessed by them as soon as possible at a Police Station.

Offensive Weapons

28. The Subject must not possess an offensive weapon unless the Court permits them to possess such a weapon and they comply with the terms and conditions of the permission.

Association

29. The Subject must not go to or stay within [*description of location or area, including boundaries*] unless they:
- a. are with a person approved by the Supervising Officer or
 - b. have permission beforehand from the Supervising Officer.

30. The Subject must not go to or stay within [*the following locations or areas/the locations or areas delineated on Map(s) [x] annexed and bordered by the following roads*]:

- [*description of location(s) or area(s), including boundaries/roads*]

other than for the reasons of:

- attending educational, recreational or therapeutic programs as directed by the Subject's Supervising Officer;
- passing through continuously on public or private transport;
- visiting [*insert place/address*].

31. The Subject must not go to or stay within the [*the following locations or areas/the locations or areas delineated on Map(s) [x] annexed and bordered by the following roads*]:

- [*description of location(s) or area(s), including boundaries/roads*]

- a. on any day other than one specific day per [*week/fortnight/month/year*] that day being [*i.e. first day of each month*]; and

- b. other than for the reasons of:

- attending educational, recreational or therapeutic programs as directed by the Subject's Supervising Officer;
- passing through continuously on public or private transport;
- visiting [*insert place/address*].

32. Despite the terms of this Order, the Subject is allowed to:

- a. travel on but not stop on [*list roads*];
- b. enter or stop on [*insert place/address*] to catch public transport.

33. The Subject must not directly or indirectly approach, communicate with, contact, or go or stay within [*number*] metres of [*person(s) and/or class(es) of persons*].

34. The Subject must not directly or indirectly contact, attempt to contact, associate with, go near or stay near a child or person under the age of [*number*] years unless they are with a person approved by the Supervising Officer.

The Subject must sign all required forms and obey the directions of the Supervising Officer about the choice and approval of the approved person.

For the avoidance of doubt, this condition does not prohibit contact where it is necessary and incidental to the Subject performing essential activities of daily living, for example, shopping at a supermarket.

35. The Subject must not go or stay within [*500 metres (half a kilometre)/other distance*] of any school, kindergarten, childcare centre, playground, public toilet or other places where children are regularly present.

36. The Subject must not go or stay within [*number*] metres of the boundary of any place where [*name*] may live or work.

37. The Subject must not do any child related work, including paid or voluntary work with people under 18 years old or participation in organisations which provide recreational, social, educational or other services to people of that age, and must not apply for child related work except [*specify exception(s)*].

38. The Subject must not assault, harass, threaten or intimidate *[name]*.
39. The Subject must obey the terms of any active Intervention Order.

Internet and Communication

40. The Subject must not possess (have) any telephone, mobile phone, computer or other telecommunication device that lets them communicate with any other person, including on the internet, or freely browse or search on the internet except *[specify device(s)]* and providing they have permission beforehand from the Supervising Officer.

Transitional Plan

41. For the initial period of release on licence the Subject must obey stages *[x]* and *[x]* of the transitional plan set out in the report and attachment of *[name of report writer]* dated *[date]* attached and marked "[x]".
42. At the end of stage *[x]* of the transitional plan a report must be prepared for the Court by *[name of report writer]* to advise the Court as to the success or otherwise of the transition plan. At that point, an application may be made to vary the Supervision Order to implement further stages of the transition plan.
43. At any point, the transitional plan can be suspended by the Director or the nominee and the matter be brought back to Court for further consideration.
44. An activity plan must be prepared each week detailing the Subject's proposed leave arrangement. A copy of this plan is then to be emailed each week to the nominated South Australian Police liaison officer.
45. The Subject must obey every part of any NDIS Accommodation and/or Support Plan prepared for the Subject.

Travel

46. The Subject must not leave or attempt to leave South Australia for any reason without obtaining the written approval of the Supervising Officer at least seven (7) days prior to travel.
47. The Subject must not drive, purchase, possess (have) or sit in the driver's seat of a motor vehicle *[for a period of no. of years/months/weeks/days]*.
48. The Subject must tell the Supervising Officer in advance of an intention to travel in any motor vehicle, including private or public transport.
49. The Subject must give up any passport they have to the Registrar of the *[Court]* at *[location]* and must not apply for a new passport.
50. The Subject must not enter any point of international departure such as an airport or seaport. selecting this option will tell the Australian Federal Police

Other Conditions

51. *[Other conditions]* option to enter free text, provision for multiple entries

Conditions

1. That the Subject obey to every respect of any treatment plan prepared and in force from time to time.
2. That the Subject be allowed, at the discretion of the Director or nominee, periods of escorted leave away from *[name of facility]* for medical treatment approved by the Director or the nominee, provided that the Subject is escorted at all times during such periods of leave by at least two staff members employed by FMHS.
3. That the Subject's case be managed by the *[name of unit/team]* at *[name of facility]* and that the Subject obey all lawful directions of both teams or any person authorised by either team to give such directions, particularly as to attendances at all appointments nominated by either team or the said authorised person.
4. That after a period of successful overnight leave, the Subject, or the Director or the nominee of behalf of the Subject, may apply to the Court for a variation of these conditions so that the Subject is discharged from *[name of facility]* to reside in the community. Such application may not be made for at least 6 months from the date of execution of this document.

- 5. That the Subject case be managed by the Forensic Community Mental Health Team, *[in conjunction with Disability South Australia through the Exceptional Needs Unit] [and a Disability SA Aboriginal Cultural Advisor]* and that the Subject comply with all lawful directions of that team, particularly with respect to attendances at all appointments nomination by that team.
- 6. That, at the discretion of the Director or the nominee and at such time when the Director or nominee sees fit, the Subject's case management be transferred to a local Community Mental Health Team, who shall continue to case manage the Subject in conjunction with the Exceptional Needs Unit *[and a Disability SA Aboriginal Cultural Advisor]* and that the Subject comply with all lawful directions from that team.
- 7. That the Subject obey the directions of the Subject's *[Community Corrections/Department of Human Services, Youth Justice]* Officer and as recommended by Disability SA as to any counselling and/or psychological treatment and/or as to attendance at rehabilitation assessments and/or as to attendance at vocational, occupational or drug and alcohol rehabilitation programs.

To the Subject: WARNING

If you fail to obey the conditions of this order, **the order may be revoked and you may be ordered to serve the balance of the sentence in custody.**

You have a right under section 293A of the *Criminal Law Consolidation Act 1935 (as in force prior to 2 March 1996)* to apply to vary or revoke the order.

Nothing in this licence affects other powers of treatment or detention including powers under the *Mental Health Act 2009*.

To the Responsible Person If you consider that these conditions need variation or upon becoming aware of any breach of these licence conditions by the Subject, the Subject needs to be arrested, the responsible person must immediately inform the South Australian Police (prosecution section) and apply to the Court for an order of variation or arrest as the circumstances require.

Authentication

.....
Signature of Court Officer
[title and name]

Acknowledgement by Subject

I acknowledge that I have received a copy of this order.

- I understand its conditions and I understand what will happen if I fail to comply with these conditions.

.....
Signature of Subject

.....
Name printed

.....
Date

Witness

.....
Signature of authorised witness

witness must be the Judicial Officer making order, the registrar or deputy registrar of a Court, a justice of the peace, a police officer of or above the rank of sergeant or the responsible officer for a police station, the manager of a training centre if the Respondent is in a training centre, the person in charge of a prison if the Respondent is in a prison, or a delegate of any of these persons or any other person or class of persons specified by the Court

next item not displayed if witness is Judicial Officer making order

.....
Printed name and title of witness stamp here if applicable

.....
Date