

IN THE CHILDREN'S COURT
OF NEW SOUTH WALES
AT CAMPBELLTOWN

CHILDREN'S MAGISTRATE FLOOD

26 APRIL 2007

Police v 'RAYMOND'

[Background: Raymond is a 14 year old boy who has been charged with four counts of Aggravated Indecent Assault and Common Assault. Raymond has had no prior matters in his history. The matter was before the Court on 26 April 2007 regarding bail. On 3 April 2007 the Children's Court granted Raymond bail on the condition that the young person is to live as directed by the Department of Juvenile Justice in consultation with the Department of Community Services. On 18 April 2007 the bail condition was changed to impose a condition that the young person live as directed by the Department of Community Services. As at 26 April 2007, when the matter came before Children's Magistrate Flood, Raymond was still in custody.]

On 26 April 2007, Sergeant Searson appeared for the Informant, Ms Slip for the child and Ms Askew and Ms Van Stellingwerff for the Department of Community Services.

Ms Slip sought a declaration pursuant to s120 of the Children and Young Persons (Care and Protection) Act 1998 that Raymond was homeless.]

The following is an edited version of the transcript of the proceedings regarding 'Raymond.'

HIS HONOUR: What's your application?

SLIP: I'm asking your Honour for a declaration of homelessness.

HIS HONOUR: I declare him homeless on the information I've got thank you.

SLIP: And I'm asking that you--

HIS HONOUR: Perhaps I should check on that information. Not allowed at home because of the victim residing there?

SLIP: Not the victim but there are other small children in the house. DoCS have basically made a finding I understand Ms Theodore, DoCS have assessed him as not suitable to go back to where he was living with his family.

ASKEW: Your Honour if I can assist the court--

HIS HONOUR: Yes Ms Askew?

ASKEW: --I have made some enquiries in regard to this matter.

HIS HONOUR: Yes.

ASKEW: A couple of things that I'm aware of which the court may or may not be aware of, but my understanding is, that the report that the department has is far more serious than what the young person has been charged with.

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ASKEW: The situation is as a result of that and given the young person's age, because there are young children residing at his home he cannot go home....

ASKEW: And then the problem that we've had because of the behaviour that's alleged as a result of that, there is no placement available for him. So we have made all the necessary enquiries because not everyone unfortunately will accept somebody that has these matters before the court. So your Honour may declare him homeless but my instructions are, whilst he is homeless the department is not in a position as at this time now to place him anywhere, so the court needs to be aware of that....

ASKEW: Place him anywhere. If no refuge is available there is no foster carers available. There is also no services that are prepared to accept him at this point.

HIS HONOUR: It seems to me to be almost what you say intractable and yet we're dealing with a fourteen year old with no prior convictions and a presumption of innocence. I'll hear the application. What is your application?

SLIP: My application your Honour is that you remove the bail condition which requires that he not be released until accommodation is approved. That would be the simplest way to make it an imperative for the Minister to find a place for him.

ASKEW: Your Honour the Department would argue given the nature of the charges before you--

HIS HONOUR: Could you argue homelessness?

ASKEW: Yes your Honour, the fact is the situation is if he's released and we have nowhere for him, it means that therefore he will be on the streets and that therefore he would pose a serious risk to other young people in the community.

HIS HONOUR: Well I'm going to have something to say all of that in a moment. Have you got your Care Act here Ms Askew?

ASKEW: Certainly your Honour. I draw your Honour's attention to number 3.

HIS HONOUR: It's a discretion.

ASKEW: It's a discretion your Honour, may and therefore if we're not, whilst we can conduct an investigation we may, which means that this young person would therefore be out there in the community and it's a matter of whether or not it is the charges whilst they are alleged, whether that places other children at risk.....

ASKEW: Your Honour just to give you some further assistance, whilst he's been in custody and I've just spoken to Mr Bell and it was hopeful that maybe he had been assessed during that period of time because that would obviously give us some assistance as to where we could place him. Mr Bell tells me that hasn't happened, but he does have a counsellor. The next problem we've got, and just so that everyone is aware that the department did receive a report on their system and my understanding the nature of that report is different to what your Honour has and obviously that requires further investigation. The department is making those enquiries, it has been escalated up past the Case Work Manager's position so that more senior officers are aware of this and they're doing their best endeavours to try and find a placement. The concern is given the nature of this particular matter unfortunately they're not readily or freely available and the volume of them is limited. So your Honour what the department is saying we are using our best endeavours to try and place the young person but we're more concerned that at this stage we can't do it. But I can assure you that the department is using their best endeavours and trying every opportunity, so that what the department is saying is whilst we note that you have declared him homeless, we will be attempting to find something but I'd be asking that his bail conditions be that he reside as directed by yourself, should a placement be made available in conjunction with juvenile justice.

HIS HONOUR: Well that is the order that he's been on since 3 April. That is the order, that's the bail condition that he has been on since 3 April.

ASKEW: Well I'd ask that that bail be continued your Honour.

HIS HONOUR: Pardon?

ASKEW: I have to ask so that we can continue.

HIS HONOUR: Well that's where the divide occurs Ms Askew appearing to represent the Department of Community Services who are involved and have been now since 3 April 2007.

ASKEW: Your Honour can I just indicate that it's only this week that I became aware of this situation and that's why I've taken a more active role.

HIS HONOUR: I note that the department has had an obligation imposed upon it by the court since 3 April '07, when the presiding magistrate made a bail condition that the young person is to live as directed by, in fact it's the other way around the Department of Juvenile Justice in consultation with the Department of Community Services.

SEARSON: That's correct your Honour I wasn't here at that time so that magistrate didn't know in regards to the young person's age and then I think I got it changed on the 18th I'm pretty sure.

HIS HONOUR: Now then on 18th you're quite correct. On the 18th you are quite correct to live as directed by DOCS. In any event the child had not been previously declared homeless is as far as I'm aware. The provision in the Act, the Children and Young Person's Care and Protection Act, 1998 section 120 is a provision that involves any person having the ability to report the homelessness of a child to the Director General. I have been urged to do that by Ms Slip the legal representative of the young person and there is no contention in court from any source that he in fact is homeless and I find as a fact on the information currently available to me that he is homeless and it should not then be glossed over and the declaration should not be withheld in my view where that is proved to the satisfaction of a judicial officer and I declare that he is homeless and I now though with the good services of Ms Askew make the report to the Director General that he is declared homeless. That then gives rise to the Director General conducting such investigations and assessments concerning the child as the Director General considers necessary and the further provision section 120 (3),

"The Director General may provide or arrange for the provision of services including residential accommodation where appropriate for a child whose homelessness has been reported to the Director General."

Well it's now been reported to the Director General that he's homeless. The obligation for the young person to live where directed by the Department of Community Services arose directly from 18 April 2007, when the court made an order or varied an order attached to the bail conditions that the young person is to reside or live where directed by the Department of Community Services. On 3 April 2007, the court made an order that he was to reside as directed by the Department of Juvenile Justice in consultation with the Department of Community Services the level has now risen in my view to a level whereby the Director General has the statutory obligations imposed upon him or her - sorry who is the minister these days?.....

HIS HONOUR: Well give Dr Shepherd my compliments please, indicate to him if you could that the court will not allow the presumption of innocence to be overridden by having a young person, fourteen years old warehoused in a juvenile detention centre. The court will not countenance the mere warehousing of a homeless youth in a juvenile detention centre. It is a breach of the declaration of the United Nations Convention on the Right of the Child, Australia is a signatory to the Convention or to the declaration and it ill behoves courts to ignore that children have rights as declared by the United Nations to which Australia has subscribed. The Department of Community Services is a department that has funding that is probably not as great as the Department of Health or Water Resources and if a single homeless boy cannot be accommodated then it is an international blight on Australia's otherwise good reputation in this area. The fact is, he has under the Bail Act an entitlement to bail as recognised by Magistrate Schurr on 3 April 2007, as recognised by Magistrate Hannam on 16 April 2007, as recognised by Magistrate Bartley on 18 April 2007 and as recognised by Magistrate Coombes on 23 April 2007 and as recognised by me today. If the condition that he is to reside where

directed by the Department of Community Services is ignored by them and if the result is that he is warehoused in a detention centre then that is a breach of the Bail Act and in my view as well a breach of the United Nations Convention. It is also a failure of the Department of Community Services to properly exercise the discretion imposed upon them to provide or arrange for residential accommodation for a homeless youth. It may be difficult, certainly I won't accept that it's impossible even if it results in expense. It's expensive keeping him at a detention centre but that is not the proper place for him.

HIS HONOUR: Juvenile Justice has had a duty too, I don't let them off the hook but their resources are not as great as that of the Department of Community Services who have a statutory duty now in particular now because he has been declared homeless.

MATTER STOOD IN LIST

HIS HONOUR: Yes Ms Askew?

VAN STELLINGWERFF: Your Honour Van Stellingwerff, solicitor I appear on behalf of the Director General in these proceedings.

HIS HONOUR: Thank you Ms Van Stellingwerff yes?

VAN STELLINGWERFF: Your Honour I've had the benefit of taking some instructions from Mr Gavahan who is the Director of Child and Family...

HIS HONOUR: Thank you yes, yes. Now what did you want to say?

VAN STELLINGWERFF: Your Honour I'm advised, instructed that on 18 April the Department of Community Services received verbal advice that they had been required to investigate the possibility of placement for this boy. Now we've seen nothing in writing but at the moment given the history of this young boy, his history of the offences that he's been charged with, the department has come to the view that the only facility which would be suitable for him is Pathways which offers both treatment and accommodation.

HIS HONOUR: Very good, I think I've had somebody else go there.

VAN STELLINGWERFF: Yes your Honour, and at the moment that is a facility which has limited resources, it's overstretched and I'm instructed that as of today we would be looking at two to three weeks for this young boy to be assessed as a suitable candidate to go into that facility.

HIS HONOUR: Where might you have him in the meantime because he's now homeless and can't stay in a juvenile detention centre?

VAN STELLINGWERFF: Well, your Honour section 122 provides that--

HIS HONOUR: Say again section?

VAN STELLINGWERFF: 122 your Honour if the court declares him homeless that imposes an obligation on the Director General to investigate and look for suitable accommodation.

HIS HONOUR: Yes.

VAN STELLINGWERFF: But it doesn't place an obligation on the Director General to fight to locate something immediately. Certainly we would be looking to do that but there's no way--

HIS HONOUR: It's a discretion--

VAN STELLINGWERFF: It's discretionary--

HIS HONOUR: --the accommodation is discretionary but as soon as I remove the condition that he's to remain in custody until suitable accommodation is available, this young boy is the responsibility of the Director General under the Care Act as I understand it as a homeless fourteen year old child.

VAN STELLINGWERFF: No your Honour it places an obligation on the Director General to investigate accommodation for him.

HIS HONOUR: Who has parental responsibility for him as he steps through that door in five or ten minutes--

VAN STELLINGWERFF: Well your Honour there is no order placing him under the parental responsibility of the Minister at this time.

HIS HONOUR: That is true.

VAN STELLINGWERFF: And that's not to say that the Director General is not willing to look for and assess wherever possible. What we're saying is that we need more time to do that to find something suitable because if for example the Director General were to place him this afternoon in a refuge, that is not going to place an obligation on Raymond to stay there. And we believe that he poses a danger to the community given his offending history.

HIS HONOUR: He hasn't got an offending history, he's got allegations.

VAN STELLINGWERFF: He's been charged with some serious offences and knowing the content of those offences the Director General could not place him in for example a foster home where there might be other children.

HIS HONOUR: There may be a foster home where there are no other children.

VAN STELLINGWERFF: At the moment your Honour we're unable to locate that. What we're asking for is for the Director General to have some more time to properly--

HIS HONOUR: You're asking for him to be remanded in custody?

VAN STELLINGWERFF: Yes your Honour.

HIS HONOUR: That is a very difficult submission to make because you are submitting that a homeless youth should remain in a juvenile detention centre where he is exposed to the corrupting influence of those who have been found guilty of crime. Now that seems to be to be an abrogation of the state's responsibilities.

VAN STELLINGWERFF: Well no it isn't your Honour, can I refer your Honour to the decision of Minister for Community Services v Nadi NSWSC March 2005 decision.... (*The decision referred to is the Minister for Community Services & Anor v Children's Court of NSW and 3 Ors [2005] NSWSC 154)

HIS HONOUR: I read that decision the Minister for Community Services and another versus the Children's Court of New South Wales and three others, the decision of Justice Hoeben, do you wish to make further submissions?

VAN STELLINGWERFF: Well just something - enquiries that were made during the adjournment have revealed that there is a possible placement with a foster carer where there are no other children. We can't confirm that this afternoon, we might be able to confirm that very late this afternoon but not in terms of this afternoon's proceedings. It's a possibility that if that placement is approved this afternoon that Raymond could be placed there. And my submission would be that this matter be adjourned until tomorrow morning by which time I can come back to the court with a response in relation to that, but that is the only placement that we have available. That would be as an interim placement pending his assessment for suitability as a candidate for the Pathways Program.

HIS HONOUR: Are you specifically asking that there be a direction that he reside where directed by the Department of Community Services?

VAN STELLINGWERFF: Well your Honour my understanding is and I wasn't in court this morning. My understanding is that your Honour has stated that and I stand to be corrected that if he is - if bail is granted to him, that he will be declared homeless, that obliges the Director General to make enquiries which we have done.

HIS HONOUR: No sorry we're a little bit at cross purposes. I've made the declaration that he is homeless based on the material that's been provided to the court that I've referred to and that still is the case. I've been highly critical of him remaining in custody as he has, since bail was first granted on 3 April 2007 when the order of the court was,

"To live as directed by the Department of Juvenile Justice in consultation with DOCS."

That was the original order. To live at an address as directed by the Department of Juvenile Justice in consultation. While you are now present and representing Mr Gavahan, the Director of Child and Family Services a branch of the Department of Community Services presided over by the Director General, Dr Shepherd so I presume you're representing the department. While you are here representing those interests and instructed as I understand by Mr Gavahan, Mr Bell has brought to my attention during the lunch adjournment information that has involved reports to the Department of Community Services since 3 April, and I'll just ask if Mr Bell would identify himself for the record and put on the record--

SLIP: Your Honour perhaps I can assist I was proposing to call Mr Bell to give evidence in relation to that--

HIS HONOUR: Thank you well that's an easier way of doing things and then there can be some cross-examination then if you wish to go down that track thank you.

<WILLIAM BELL, SWORN

<EXAMINATION-IN-CHIEF BY MS SLIP

Q. Your name is?

A. William Bell. I am the Intake Officer for Juvenile Justice at Campbelltown Children's Court.

Q. You're employed by?

A. The Department of Juvenile Justice.

Q. Mr Bell we're here today in relation to Raymond , how long has that young person been in custody?

A. Since 3 April.

Q. I understand that you've checked your Department's records regarding this young person?

A. I certainly have.

Q. And you checked those today?

A. I certainly did during the lunch break and I found out that--

HIS HONOUR

Q. Take your time so that other people can take notes Mr Bell. Thank you?

A. That's all right. On 3 April the young person, because I was away on a conference, was dealt with by an Intake Officer by the name of Ian Stayt who put a notification in for DOCS and the reference number to that notification is 1-AF7YCN.

HIS HONOUR: Sorry notification on 3 April?

SLIP

Q. Sorry the note was dated that - that was a 3 April?

A. It was.

Q. And can you just explain to me that is file note indicating that Mr Stayt made contact with the Department of Community Services?

A. Yes it is.

Q. On that day?

A. Yes.

Q. Are there any records on the department file on Juvenile Justice Department file of any further communications with the Department of Community Services?

A. Yes there was, the very next day on fourth of the 4th, a notification was put in by an Elizabeth Debski from Reby Juvenile Justice Centre and she received a reference number which was reference number 1-AFKFK1.

Q. Can I just confirm those reference numbers that you're quoting are they provided by the Department of Community Services or are they are a Juvenile Justice reference number?

A. No, they're done by Community Services back to give you a reference number.

HIS HONOUR

Q. Sorry just to interrupt you there. The notification being a notification of what and for what purpose?

A. Homeless your Honour.

SLIP

Q. And after 4 April what was the next communication between Juvenile Justice and Community Services?

A. On 10 April '07 Department of Community Services at Liverpool were contacted by Elizabeth Debski who spoke to them directly.

Q. And the next communication?

A. On 12 April a Derek Payne from Reiby a Juvenile Justice Officer rang Liverpool DOCS and spoke with them directly.

Q. And do you have any other records of communication?

A. From 17 April through to today, Phillipa Evans has contacted Liverpool Department of Community Services and spoken to them in relation to this young person on five separate occasions.

HIS HONOUR: Any cross-examination?....

<CROSS-EXAMINATION BY MS VAN STELLINGWERFF

VAN STELLINGWERFF: I just want to ask a couple of questions your Honour yes.

Q. Mr Bell those phone calls that you referred to starting on 3 April, did you make those phone calls yourself?

A. No.

Q. No?

A. No I did not. I can tell you who did, I've written them down.

Q. And are you aware that when that phone contact was being made between 3 April and 18 April that the order made by this court at that time was that Raymond was to reside as directed by Juvenile Justice in consultation with DOCS?

A. No I did not actually until he came back to court, but we can't place the young person anyway because the young person's under 16 and refugees won't take him. The only place that we can place young people of Juvenile Justice is back with his family.

Q. But the purpose of the phone calls at that time was to fulfil the order and for Juvenile Justice to consult with DOCS as to what was available for Raymond at that time?

A. That's correct.

Q. And are you aware that we advised the person from your agency making those phone calls that they could make a referral to Pathways, we actually suggested that as one agency?

A. No I did not.

Q. The order changed on 18 April where Raymond was to reside as directed by the Department of Community Services?

A. That's correct because I asked for it.

<NO RE-EXAMINATION

<THE WITNESS WITHDREW

HIS HONOUR: What is the Director General of the Department of Community Services ask for by way of any order?

VAN STELLINGWERFF: We're seeking that this matter be adjourned until tomorrow morning so that we can make further enquiries about the possibility of this foster carer and we will have that information very late this afternoon. If this matter is adjourned until tomorrow morning we can come back to the court with a response in relation to that placement.

HIS HONOUR: You're asking for an adjournment. Are you asking for any conditions of bail?

VAN STELLINGWERFF: Well we ask that Raymond be placed in custody overnight because we do not have a placement for him at this time. Until this placement is approved, if it's approved late this afternoon, there is nowhere that we can place him.

HIS HONOUR: Ms Slip?

SLIP: Yes your Honour I think it's interesting to observe that at 1 o'clock today this court has had various personnel attend who have not been seen in this matter in this court before today. It's interesting to observe that the attendance of DOCS at court on behalf of this child since 18 April has not occurred and your Honour it's interesting to observe that the adjournment being sought is for convenience of the department without any acknowledgement of the difficulties that the young person has been in since he's been in custody for quite some time and since 18 April directly as a result of DOCS inaction. In relation to my instructions I'm instructed that Raymond has a grandmother who lives in [redacted]. He has clothes at his grandmother's place. He has stayed over there before. She doesn't have any children in her care. He is as close as certain that she could have him at least for tonight. There has been discussion with him and his mother about where he could live. His mother informs him that his grandmother didn't want to take him on a long term basis because she doesn't have any transport and couldn't assist him getting into appointments and to court and what not, but I have her address. She resides at [address provided], her name is [name provided]...

SLIP: Quite apart from that particular placement it's strikes me your Honour that a young person with no criminal history has been for various bureaucratic reasons kept in custody, far longer than he should have and nothing from the Department of Community Services today, from either of the legal representatives has in any way expressed any concern about this young person's welfare. There's been a whole lot of noise about the welfare of the community, the risk to other children, the risk to his siblings, there's been no concern expressed about the welfare of this young person. Certainly the department has discretion. If your Honour is to release him on a bail condition to reside as directed by Community Services that the department has discretion as to whether or not they want to find him a place and look that's a matter for the department, if they choose to let this young person fend for

himself. This young person instructs me that he's prepared to fend for himself and in relation to the department's resources, your Honour's already referred to those appropriately and I won't go any further than to say that once again today we have had the demonstration that where pressure is put on the department, the department comes up with what is required. Your Honour has put some pressure on the department and suddenly we have personnel in the court that we've never seen here before. Your Honour's put pressure on the department and suddenly we have a possible placement, whereas on Monday we didn't even have DOCS personnel, this morning we have no possible placement, we need two weeks to find somewhere. Your Honour I'm asking you to make the pressure just that little bit higher and to release this young person right now.

HIS HONOUR: Any matter in response Ms Van Stellingwerff?

VANSTEELINGWERFF: Yes your Honour, I'm advised that enquiries made of Juvenile Justice about the possibility of family placements, we were told no, there were no family options available to him which is why we did not investigate that, now suddenly grandma has suddenly appeared as an option. We know nothing about her and at this stage we would not be prepared to endorse a placement with her without speaking to her and making an assessment. The best possible option at this time is that Raymond goes back into custody, we can adjourn this matter until tomorrow morning and we can make proper enquiries about a placement which will be more in keeping with his particular needs. That placement will be available to him until he can enter Pathways into a specialised facility.

SLIP: Your Honour there is one matter which I failed to mention. I seek leave to address on that.

HIS HONOUR: Yes.

SLIP: I've just had confirmation again from Raymond that he is willing to go wherever he is sent, he is willing to comply with whatever is required to get bail and I've discussed with him that wherever DOCS tell him to go, he will go, whether that be in a motel overnight, whether that be at his grandmother's on a temporary basis, whether that be sleeping on the floor at the DOCS office he's prepared to do that.

HIS HONOUR: Thank you. I'll just ask this question. You're not suggesting, I've read the decision of the Minister for Community Services and Children's Court of New South Wales and others. You're not suggesting that the court is without power to make it a bail condition that in the light of the decision of Justice Hoeben that the court is precluded from making a bail condition to reside as directed by the Department of Community Services Officers.

VANSTEELINGWERFF: That's correct your Honour.

HIS HONOUR: Yes well as I read the decision of Justice Hoeben, the obligation of the Department of Community Services pursuant to Section 120 of the Children and Young Persons Care and Protection Act requires, That under the part 2 the heading Homelessness that any person may report the homelessness of a child to the Director General and that upon receipt of a report the Director General must conduct such investigation and assessment concerning the child as the Director General considers necessary and having conducted those investigations and assessments the Director General may provide or arrange for the provision of services including residential accommodation or appropriate for the child whose homelessness has been reported. The evidence of Mr Bell to the court today is that the first report of homelessness that was made of an officer of the Department of Juvenile Justice pursuant to a bail determination of this court on 3 April 2007 which was in these terms that the young person Raymond was to live in accommodation as directed by the Department of Juvenile Justice in consultation with the Department of Community Services and not to be released until accommodation is approved. But in response to the requirement of the court to meet that bail condition and the requirement to consult with the Department of Community Services, Officers of the Department of Juvenile Justice commenced their notifications of homelessness to officers of the Department of Community Services on 3 April 2007 with further notifications on 4 April 2007, 10 April 2007, 12 April 2007 and between 17 April 2007 and today's date, five more times officers of the Department of Community Services were notified that the child was homeless, 14 year old with no prior convictions, certainly facing some serious allegations.

I have earlier today expressed my view in a decision that I've given regarding questions of bail, that it is entirely appropriate. First of all that's it's an abrogation of the duty of the Director General in a failure to conduct such investigation. There's no evidence before me that such investigation and assessment concerning the child as the Director General considers necessary has been conducted except to say that they're aware that he faces serious charges and allegations and as Ms Slip has quite properly submitted to the court and I adopt and accept her submission as valid, that all sorts of concerns have been expressed about the difficulty of providing him with accommodation and the protection of the community but no concern has been expressed to the court about the fact that since 3 April he has remained in custody.

It is, in my view as expressed earlier, a breach of the Declaration of the Rights of the Child made by the United Nations to which Australia is a signatory to consider that a child is not homeless because a child is in custody. Not serving a sentence but in custody being as I suggested earlier being warehoused while the bureaucracy involved in his care failed to act it seems to provide him with assistance being a homeless youth. It was entirely appropriate for the officers of the Department of Juvenile Justice to consider him homeless because a child is homeless if a child can't return home and if nobody else is providing him with accommodation because a home is not a juvenile detention centre and Mr Bell and his officers have acted entirely appropriately and properly in making it a matter of concern and a reportable matter to those officers who have had their reports.

But the court is further concerned that the department's approach today is to continue to leave him in a detention centre so that they can at the eleventh hour try to find some suitable accommodation, well I think they can find suitable accommodation overnight until perhaps the foster care arrangement can be put in place tomorrow. I think they may be even able to assess the grandmother between now and close of business. In fact I know that calls are made as late as 3am to temporary foster carers when a baby requires care, urgent care. Well this youth requires urgent care and requires to be properly released to bail which was the court's intention as early as 3 April endorsed by four other magistrates before the matter came before me today. The order of the court is that bail is to continue and the variation the young person to reside as directed by DOCS and transport to be made available by the officers of Juvenile Justice.

BELL: The only thing your Honour will have to make is that, if he's to reside as directed by DOCS and the young person to furnish the court with an address.

HIS HONOUR: He has got an address, [granmother's address quoted].

BELL: Is that the address that your Honour wants to use?

HIS HONOUR: No it's an address that he says where he himself can find accommodation tonight. DOCS have to consider whether it is appropriate or inappropriate and if necessary they can take him into care. As I understand sorry, Justice Hoeben's judgement, the court has power to give that direction. It was interesting that he accepted that the imposition of such a condition might in a practical sense impose considerable pressure upon the department to find accommodation and therefore the giving of the direction did not require the department to actually do anything, and it's at all times open to the department to decline to give a direction where the child might reside. But he can have bail without you giving the direction where to reside. But if you give a direction, then he is to reside where you direct him to reside.

VAN STELLINGWERFF: Your Honour in addition to that I'm instructed would your Honour make it a further condition of his bail that he accepts all directions from the officers of the Department of Community Services.

SLIP: All reasonable directions please your Honour.

HIS HONOUR: To reside as directed by DOCS, that means DOCS officers and accept all reasonable directions of DOCS officers. And are you instructed that some transportation will be provided for him when he's released?

VAN STELLINGWERFF: I don't have those instructions.

SPEAKER: Yes.

HIS HONOUR: Yes that's given to him, thank you.

VAN STELLINGWERFF: In addition to that your Honour we'd also like to see included that he attend for and to anticipate in any assessments that as are arranged by the Department of Community Services.

HIS HONOUR: Well I think that's all reasonable directions isn't it? Won't that cover it?

SLIP: That's covered.

HIS HONOUR: Yes thank you.

SLIP: Your Honour there were three other conditions in the previous bail, I'm imagining that your Honour is planning to continue those. One of them is not to approach the complainant. One of them is a curfew.

HIS HONOUR: I'm only varying the one condition which was I have - I'll make it quite clear. The condition not to be released is vacated or is struck out. Yes well I'll just make that perfectly clear that the condition that he's not to be released is struck out, not to be released until suitable accommodation is struck out that's one of the variations and a further variation is the young person is to reside as directed by the Department of Community Services' Officers and accept all reasonable directions of Department of Community Service Officers. It's noted that transport will be provided by the Department of Community Service Officers to his accommodation.

