



## HIGH COURT OF AUSTRALIA

4 December 2024

### BIANCA FULLER & ANOR v MARK LAWRENCE [2024] HCA 45

Today, the High Court unanimously dismissed an appeal from a decision of the Court of Appeal of the Supreme Court of Queensland. The appeal concerned whether a direction, given by a corrective services officer to a prisoner under the *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld) ("the DPSO Act"), is subject to judicial review pursuant to the *Judicial Review Act 1991* (Qld) ("the Review Act"), so that the prisoner is entitled to receive a statement of reasons for the direction. That issue turned on the meaning a decision of an administrative character "made ... under an enactment" for the purposes of s 4(a) of the Review Act, as that phrase was explained by the Court in *Griffith University v Tang* (2005) 221 CLR 99 ("*Tang*").

The respondent is the subject of a supervision order made by a judge of the Supreme Court of Queensland under the DPSO Act ("the Supervision Order"). In accordance with s 16(1)(db) of the DPSO Act, cl 6 of the Supervision Order requires the respondent to obey any reasonable direction given by a corrective services officer, including about whom he may have contact with. The respondent was given a direction by a corrective services officer that he could not have in-person contact with a named person ("the Direction Decision"). The respondent sought a statement of reasons for the decision under s 32 of the Review Act, which the officer refused to provide. A judge of the Supreme Court of Queensland determined that the Direction Decision was a decision "made ... under an enactment" within the meaning of s 4(a) of the Review Act, and thus the prisoner was entitled to receive a statement of reasons. An appeal by the corrective services officer and the Chief Executive of Queensland Corrective Services to the Court of Appeal was dismissed.

In respect of the first of the two criteria identified in *Tang* ("the decision must be expressly or impliedly required or authorised by the enactment"), the appellants accepted that the Direction Decision was authorised by the DPSO Act. In relation to the second criteria ("the decision must itself confer, alter or otherwise affect legal rights or obligations, and in that sense the decision must derive from the enactment"), the Court rejected the appellants' argument that the Direction Decision does not itself affect the respondent's legal obligations because the obligation to comply with the Direction Decision is sourced in a judicial order. The Court held instead that the source of the respondent's obligation to comply with the Direction Decision is in the DPSO Act – specifically, s 16(1)(db) – from which the capacity of the Direction Decision to affect the respondent's legal obligations is derived. It follows that, while the Direction Decision depends for its purported efficacy in part on the making of the Supervision Order by the Supreme Court, this does not detract from the conclusion that the Direction Decision was "made under" the DPSO Act.

*This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*