

PAEDOPHILE — BAIL CONDITIONS — NICHOLAS BEER

706. Hon SUE ELLERY to the Attorney General:

I refer to the comments by the Premier in the other place today that the paedophile Ryan Trevor Clegg should not have been bailed.

- (1) Can the Attorney General clarify reports that another notorious paedophile and member of the so-called Evil 8 Nicholas Adam Beer is currently on bail under his government's watch and living near a northern suburbs primary school?
- (2) What are his bail conditions?
- (3) Did the prosecution oppose bail for Mr Beer after he pleaded guilty?

Hon MICHAEL MISCHIN replied:

- (1)–(3) I thank the member for the question. I am aware that another one of the so-called Evil 8 by the name of Beer is currently on bail pending sentence. I am not aware of the circumstances of his location or the conditions of bail, but I have sought advice on that subject. As to the position of the prosecution in his appearance in court, I am not aware of that either, but I am seeking advice on that subject.

I should point out the manner in which this has arisen. Certainly, offender Clegg had been arrested in something like April last year and charged with a variety of offences. Several of those offences involve physical sexual assaults on a particular young female complainant and the rest of the charges, the bulk of them, relate to the possession of child pornography. He has been on bail since that time. He appeared in court on 4 August and, as I understand it, those bail conditions were modified to require a new residential condition that he reside at a particular address, his parents' address, on Stirling Highway. Existing bail conditions prohibited him from being within 100 metres of schools, childcare centres or, I think, playgrounds. That proved to be in conflict with the residential condition, although it would appear that was not realised by the police prosecutor who was managing the matter at the time. It set up a conflict there. My understanding is that the residential condition was framed in order to ensure that he was living at a known address where he would receive supervision and support from the sureties for his bail, being his parents. There were also other conditions, including a prohibition that he approach children under 16 years. Stringent bail conditions were in place, but it appears that due to some oversight there was a conflict in the bail conditions.

My office was notified of this situation on Friday. It was subsequently confirmed by advice from the Premier's electorate office, which went to the Premier's ministerial office and was subsequently sent to my office. Inquiries were made that ascertained that the police were aware of the problem and had relisted his case before the court in order to deal with the question of his bail review and his bail position. Accordingly, it seemed to be being managed at that stage. Subsequently, it appears that there was increased community concern that led to some publicity around the issue. But late on Monday, the surety indicated that he was withdrawing his support for bail and Clegg was arrested and returned into custody, where he remains. The matter has come before the court since and will again come before the court in due course for further consideration of his position.

Whether he should or should not have been bailed raises an interesting situation and problem. As part of the provisions of the Bail Act, any judicial officer considering an offender or an alleged offender for bail has to take into account a variety of circumstances. In broad terms, in the absence of certain presumptions that are contained within the Bail Act, they have to weigh up the risk of the accused not attending court in due course, when they are required to attend court, against the risk that the accused poses to witnesses, to alleged victims and to the community generally, and that imports an appreciation of the seriousness and the character of the offending behaviour that is being alleged against them. On that basis, he was released to bail in April. Apparently, there have been no contraventions of those bail conditions until now.

In 2007, the Labor government at the time amended the Bail Act to remove a presumption of imprisonment pending sentence. The Bail Act at the time contained a provision that required a judicial officer to take into account, after a person has pleaded guilty and a conviction recorded, but pending their sentence, whether there was a strong likelihood of a non-custodial sentence and whether there were any exceptional reasons that would permit or require or suggest that a person should be released on bail—a presumption that if a person has pleaded guilty and is being remanded for sentence, they would, unless there was a strong likelihood of a non-custodial sentence or exceptional reasons, be remanded in custody. The Labor government removed that provision and left considerations at large. I can understand a magistrate faced with that situation and no presumption would be inclined to extend bail pending sentence. The Beer case, as well as the Clegg case, has revealed that a further look needs

to be taken at that presumption. Today, I announced that I will take to cabinet a number of options to make more stringent the requirements for bail and to add considerations regarding the remand in custody of an offender who has pleaded guilty but is being remanded for sentence. It may be that we restore that presumption, either generally or otherwise, in some form. Certainly, what I have in mind would capture cases of this type into the future—any sexual offences committed against children. That is where the matter rests.

The current prosecution against Beer is not within my portfolio, but within the control of the Commissioner of Police, and is being managed by the police. I am confident that the situation for that offender is also being reviewed with a view to see whether he is a proper case to be in the community on bail and whether his conditions need to be tightened up if there is no way of revoking bail in his case.