

In the matter of
MATTHEW LESLIE ARMITAGE

(Applicant)

SECTION 193A CORRECTIVE SERVICES ACT 2006

PROCEEDING: An application for parole

HEARING DATE: 26 August 2022 and 3 February 2023

DECISION:

1. The Board finds that the applicant is a no body-no parole prisoner.
2. The Board also finds that he has not given satisfactory cooperation.
3. In such circumstances the Board makes a no cooperation declaration about the applicant.

DELIVERED ON: 3 February 2023

COUNSEL: Mr Neville Weston appeared as Counsel Assisting the Board
Mr Dan Caruana appeared for the Applicant

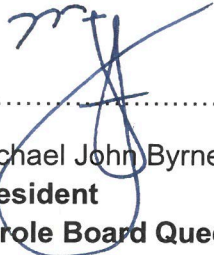
SOLICITORS: Parole Board Queensland Legal Services
Jahnke Lawyers

DECLARATION

The Parole Board Queensland, acting pursuant to s. 175L of the *Corrective Services Act 2006* (Qld) ('the *Act*'), is not satisfied that **Matthew Leslie Armitage** has given satisfactory cooperation in the investigation of the homicide offence to identify the victim's location and hereby makes a no cooperation declaration. Pursuant to s.175P of the *Act*:

- The reasons for the Board's decisions are published.
- The decision is to take effect from 3 February 2023.
- Matthew Leslie Armitage may not apply for parole under s. 176 or 180 unless a notice is given pursuant to s.175Q declaring satisfactory cooperation.

Matthew Leslie Armitage may apply at any time for a reconsideration application pursuant to s.175R of the *Act*.


.....
Michael John Byrne KC
President
Parole Board Queensland

Date: 3 February 2023

Chronology

- [1] A hearing of this application was heard by Parole Board Queensland (“the Board”) in a public hearing on 26 August 2022. At that time written submissions from counsel for the applicant as well as counsel assisting the Board had been exchanged between the parties and provided to the Board. Different counsel for the applicant appeared before the Board at the hearing.
- [2] Following that hearing the Board requested additional written submissions on the interpretation of s 175C(b)(ii) of the *Corrective Services Act 2006* (“the Act”). Such submissions were subsequently received from counsel for the applicant and counsel assisting the Board.
- [3] On 8 November 2022 the Board published its preliminary reasons for considering deciding that the applicant had not given satisfactory cooperation and making a no cooperation declaration under s 175L of the Act. A period of 21 days was given for a response.
- [4] The applicant himself sent two “submissions” to the Board dated 11 November and 22 December 2022 which, essentially, expressed vitriol towards the Board for failing to find in his favour immediately.
- [5] The Board subsequently received written submissions from King’s Counsel instructed for the applicant (who had not previously acted in this matter) dated 23 December 2022.

Issue

- [6] In the initial written submissions for the applicant it was contended that he had given satisfactory cooperation and that he was not a no body-no parole prisoner within the meaning of s 175C of the Act.
- [7] The former contention was not seriously pressed in oral submissions before the Board (as explained in the preliminary reasons).
- [8] Finally, in the ultimate written document in response to the preliminary reasons the sole submission on behalf of the applicant is summarised as follows –
 - “(a) the evidence does not establish that Mr Armitage is a “no body-no parole prisoner” within the meaning of s 175C of the Act;
 - (b) therefore, the fact necessary to establish jurisdiction for the Board to make the proposed no cooperation declaration is not established; and
 - (c) accordingly, the proposed no cooperation ought not be made for lack of jurisdiction.”
- [9] The basis behind that submission was later said to be because, “on its proper construction, the statutory definition of no body-no parole prisoner in s 175C of the Act is only engaged

when the body of the deceased, or remains thereof, have not been located. The definition is not engaged in respect of parts of that body which no longer exist” and that, “...a factual question must be answered: namely, whether the part of the victim’s body that is not identified in investigations still exists.”

[10] For the reasons that follow the Board finds that submission to be misconceived.

Construction of the Act

[11] Section 175C provides –

175C Meaning of no body-no parole prisoner

A prisoner is a no body-no parole prisoner if—

- (a) the prisoner is serving a period of imprisonment for a homicide offence; and
- (b) either—
 - (i) the body or remains of the victim of the offence have not been located; or
 - (ii) because of an act or omission of the prisoner or another person, part of the body or remains of the victim has not been located.

[12] It may be seen that the terms used are broad and clear. They focus upon a body or remains, or of part thereof which have not been located (emphasis added). There is no reference to or relevance of their “existence” nor is it clear to the Board what is meant by the applicant’s use of the term “not identified” which does not feature in the Act.

[13] In the present matter the parts which have not been located include both hands and both feet of the deceased.

[14] Accordingly, the jurisdiction of the Board in these matters is enlivened under s 175C upon the failure to locate either the body or parts thereof (in the defined circumstances). The focus then shifts to the cooperation, given by the person who killed the victim, in locating the remains.

[15] In other words, as the facts in earlier decisions of the Board¹ demonstrate, the jurisdiction arises in cases where the entire body may not still exist.²

[16] Such a construction is confirmed by the introductory speech in the Legislative Assembly 23 May 2017³ where the Hon. Yvette D’Arth said:

¹ No Body No Parole: Decisions of the Board (Web Page, 27 January 2023) <<https://www.pbq.qld.gov.au/no-body-no-parole/decisions-of-the-board/>>.

² See *Application for Parole by Shaun Danny Dennis* (16 February 2018) where the deceased body was disposed of in a crocodile infested waterway and *Application for Parole by Nelson Andrae Patea* (6 December 2018) where the body of the victim was dispersed in fire.

³ *Acts Interpretation Act 1954* s 14B(1)(c) and (3)(f).

“...under the government's bill the prisoner will not be granted parole unless the Parole Board is satisfied they have satisfactorily cooperated in the investigation of the offence to identify the location, or the last known location, of every part of the body or remains of the victim and the place where every part of the body or remains of the victim may be found. Importantly, this is designed to address those horrendous cases where some remains have been found but some parts of the body continue to be hidden or missing. Again, the approach taken in this bill implements the government's commitment to deliver a comprehensive and effective regime.”

And later, “that is, the bill contemplates those cases where it is an impossibility for the body to, in fact, be found.”

Conclusion

- [17] The Board finds that the applicant is a no body-no parole prisoner.
- [18] The Board also finds that he has not given satisfactory cooperation.
- [19] In such circumstances the Board makes a no cooperation declaration about the applicant.