

QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL

CITATION: *VRN v Queensland Police Service - Weapons Licensing*
[2019] QCAT 77

PARTIES: **VRN**
(applicant)
v
**QUEENSLAND POLICE SERVICE – WEAPONS
LICENSING**
(respondent)

APPLICATION NO/S: GAR048-19

MATTER TYPE: General administrative review matters

DELIVERED ON: Decision made on 19 March 2019
Reasons delivered on 26 March 2019

HEARING DATE: On the papers

HEARD AT: Brisbane

DECISION OF: Member Kanowski

ORDERS: **The application for miscellaneous matters filed by
VRN on 4 March 2019, insofar as it seeks orders or
directions for the production of documents, is refused.**

CATCHWORDS: ADMINISTRATIVE LAW – ADMINISTRATIVE
TRIBUNALS – QUEENSLAND CIVIL AND
ADMINISTRATIVE TRIBUNAL – where applicant
seeks documents relating to motives for reviewable
decision – whether relevant

Queensland Civil and Administrative Tribunal Act 2009
(Qld), s 62(3), s 63(1)

REPRESENTATION:

Applicant: Self-represented

Respondent: Sergeant D Ayscough

APPEARANCES:

This matter was heard and determined on the papers pursuant to section 32 of the
Queensland Civil and Administrative Tribunal Act 2009 (Qld) ('QCAT Act').

REASONS FOR DECISION

- [1] These decisions relate to a decision on an interlocutory application in a review proceeding. The substantive proceeding is for the review of decisions by Queensland

Police Service - Weapons Licensing to suspend and then cancel the applicant's weapons licences. The substantive matter is listed for hearing on 16 April 2019.

- [2] The applicant has applied for a non-publication order. That application is to be decided at the hearing of the substantive matter, so the present reasons are being published in a de-identified format in case a non-publication order is made.
- [3] The interlocutory application in question was filed by way of an application for miscellaneous matters on 4 March 2019. The application for miscellaneous matters sought a number of orders and directions, but relevantly for the present reasons the applicant asked the Tribunal to require the respondent to produce records since 24 September 2018 containing any reference to the applicant or an affidavit he had provided in another QCAT proceeding; records indicating whether a Sergeant Bradford is no longer employed by Queensland Police Service and, if so, any effect this would have on any matters before QCAT involving the applicant; and any other document or thing the Tribunal believes ought to be produced.
- [4] In the application for miscellaneous matters, the applicant sought a direction to the respondent under section 62(3) of the QCAT Act requiring it to produce the records, as well as an order under section 63(1) of the QCAT Act requiring the Commissioner of the Queensland Police Service or his delegate to produce the records.
- [5] It is apparent from the applicant's submissions attached to the application for miscellaneous matters that he seeks the records in an effort to demonstrate that the respondent had improper motives – such as retaliation and ulterior purposes – for suspending and then cancelling his licences.
- [6] A review proceeding, such as the substantive proceeding here, involves a 'fresh hearing on the merits' to arrive at 'the correct and preferable decision'.¹ This will involve an examination of whether the applicant's licences should have been suspended and cancelled based on the criteria in the *Weapons Act* 1990 (Qld). This will require consideration of matters such as whether the applicant is a fit and proper person. The motives of the respondent in suspending and cancelling the licences are irrelevant. Consistent with this, a decision-maker must not give evidence about, and cannot be cross-examined about, why he or she made a decision under review.²
- [7] The respondent has a statutory duty to provide any document or thing in its possession or control that may be relevant to the Tribunal's review of the decision in question.³ It is therefore not necessary to issue a further direction or order at the request of the applicant for the production of records of the respondent. To the extent that there may be additional records that could assist the applicant to show improper motives, those records would be irrelevant to the proceeding.
- [8] Accordingly, it is not appropriate to make the interlocutory orders or directions sought by the applicant.

¹ QCAT Act, s 20.

² QCAT Practice Direction No 3 of 2013 *Hearings in Administrative Review Proceedings*, [5(d)].

³ QCAT Act, s 21(2)(b).

Conclusion

- [9] The application for miscellaneous matters, insofar as it seeks orders or directions for the production of documents, is refused.