

RE: MOHAMMED JUNAID THORNEREASONS FOR DETERMINATION

The Honourable G J Bellew SC - Chair  
Ms J McKenzie – Community Corrections Representative  
Sgt M Morris – NSW Police Representative  
Mr D Sword – Community Member  
Ms R Caruana – Community Member

Appearances

Ms P McEwen of Counsel for the State of New South Wales  
Ms A Burkitt of Counsel for the Offender

Date of hearing – 11 March 2025  
Date of determination – 31 March 2025

INTRODUCTION

1. Mohammed Junaid Thorne (the offender) is presently serving a sentence of imprisonment for drug related offending. His non-parole period expired on 30 January 2025 and his sentence expires on 30 July 2028.
2. On 29 November 2024, the offender's case came before a meeting of the State Parole Authority of New South Wales (the Authority) for consideration of his release. On that occasion the Authority was provided with material on behalf of the State of New South Wales, indicating that the offender's release was opposed.
3. In light of that material, the content of which is discussed below, the Authority determined that the matter should be adjourned for further consideration in light of the provisions of Division 3A of Part 6 ("*Division 3A*") of the *Crimes (Administration of Sentences) Act 1999* NSW ("*the Act*").
4. The matter was listed before the Authority for a review hearing on 30 January 2025. However, it could not proceed on that day due to issues surrounding the offender's legal representation and was re-listed on 11 March 2025. The Authority's decision was reserved following the hearing.

## DIVISION 3A

5. Division 3A, which encompasses ss 159A to 159D of the Act, is pivotal to the Authority's determination in the present case and is in the following terms:

### ***Division 3A Parole orders for terrorism related offenders***

#### **159A Definitions**

(1) *In this Division—*

**terrorism offence** means a terrorism offence within the meaning of the Crimes Act 1914 of the Commonwealth or an offence under section 310J of the Crimes Act 1900.

**terrorism related offender** means an offender to whom this Division applies.

**terrorist act** has the same meaning as it has in Part 5.3 of the Commonwealth Criminal Code.

(2) *A reference in this Division to an offender engaging in, or inciting or assisting others to engage in, terrorist acts or violent extremism includes a reference to an offender doing so in this State, in any other part of Australia or in any other country.*

#### **159B Offenders to whom Division applies**

(1) *This Division applies to an offender—*

(a) *who is serving a sentence for a terrorism offence, who has previously been convicted of a terrorism offence or who has been charged with a terrorism offence, or*

(b) *who is the subject of a control order made under Part 5.3 of the Commonwealth Criminal Code, or*

(c) *who has any associations with a terrorist organisation (within the meaning of Division 102 of Part 5.3 of the Commonwealth Criminal Code), or*

(d) *who is making or has previously made any statement (or is carrying out or has previously carried out any activity) advocating support for any terrorist act or violent extremism, or*

(e) *who has or previously had any personal or business association or other affiliation with any person, group of persons or organisation that is or was advocating support for any terrorist act or violent extremism.*

(2) *Without limiting subsection (1) (d) and (e)—*

(a) *advocating support for a terrorist act or violent extremism includes (but is not limited to) any of the following—*

(i) *making a pledge of loyalty to a person, group of persons or organisation, or an ideology, that supports terrorist acts or violent extremism,*

(ii) *using or displaying images or symbols associated with a person, group of persons or organisation, or an ideology, that supports terrorist acts or violent extremism,*

- (iii) *making a threat of violence of a kind that is promoted by a person, group of persons or organisation, or an ideology, that supports terrorist acts or violent extremism, and*

*(b) an association or other affiliation with a person, group of persons or organisation includes (but is not limited to) any of the following—*

- (i) *networking or communicating with the person, group of persons or organisation,*
- (ii) *using social media sites or any other websites to communicate with the person, group of persons or organisation.*

**159C Limitation on release on parole of terrorism related offenders**

*(1) The Parole Authority must not make a parole order directing the release of an offender who is known to the Parole Authority to be a terrorism related offender unless—*

*(a) the Parole Authority is satisfied that the offender will not engage in, or incite or assist others to engage in, terrorist acts or violent extremism, and*

*(b) the offender is otherwise eligible under this Act to be released on parole.*

*(2) The grounds on which the Parole Authority may revoke the parole order of an offender who is known to the Parole Authority to be a terrorism related offender include that the Parole Authority has become aware that the offender may engage in, or incite or assist others to engage in, terrorist acts or violent extremism.*

*(3) The grounds on which a judicial member of the Parole Authority may suspend the parole order of an offender who is known to the judicial member to be a terrorism related offender include that the judicial member has become aware that the offender may engage in, or incite or assist others to engage in, terrorist acts or violent extremism.*

*(4) (Repealed)*

**159D General provisions relating to terrorism related offenders**

*(1) In deciding whether or not to release a terrorism related offender on parole, the Parole Authority is to—*

*(a) have regard to any credible information it has on the risk that the offender may engage in, or incite or assist others to engage in, terrorist acts or violent extremism under the terms of the proposed parole order and in the future, and*

*(b) have regard in particular to whether the nature of any associations or affiliation that the offender has with any persons or groups advocating support for terrorist acts or violent extremism gives rise to any such risk.*

*(2) The Parole Authority or a judicial member of the Parole Authority may, for the purposes of this Division, have regard to advice received from the NSW Police Force or from any other public authority (whether of this or any other State or Territory or of the Commonwealth) established for law enforcement, security or anti-terrorist purposes.*

*(3) This Division applies in addition to, and despite anything to the contrary in, any other provision of or made under this Act.*

*(4) However, this Division does not limit the operation of section 160.*

*(5) This Division extends to applications for parole orders pending on the commencement of this Division and to parole orders made before that commencement.*

6. There is no issue, for the purposes of s 159C(1)(b), that the offender is eligible for parole. That leaves two primary issues for the Authority's determination.
7. The first, is whether the offender is a terrorism related offender within the terms of ss 159A and 159B of the Act.
8. If the conclusion is reached that the offender is a terrorism related offender, and thus an offender to whom Division 3A applies, the second issue is whether the Authority is satisfied that the offender will not engage in, or incite or assist others to engage in, terrorist acts or violent extremism. If the Authority is not so satisfied, it is precluded by s 159C(1) from making a parole order. If, on the other hand, the Authority is satisfied that the offender will not engage in such conduct, it must then address the provisions of s 135 of the Act for the purposes of determining whether the offender should be released, having regard to the issue of community safety.

## THE OFFENDING

9. On 8 October 2021 the offender was sentenced by Judge Sutherland SC to imprisonment for 9 years with a non-parole period of 5 years and 6 months for offences of supplying a prohibited drug. Given the primary issues for determination by the Authority as outlined above, the offending for which the offender is currently serving a sentence assumes less significance than might otherwise be the case.
10. Whilst it should be noted that the Authority has been provided with a series of Pre-Release reports from Community Corrections, all of which are supportive of the offender's release, those reports have (as might be expected) been written entirely from the purview of considerations such as the offending, the offender's rehabilitation in custody, and the desirability of releasing him into the community. The officers preparing them have not, for obvious reasons, been asked to consider the provisions of Division 3A which assume primacy in the offender's case.

11. In all of these circumstances it is not necessary to make any further reference to the offending.

## THE EVIDENCE

12. To assist the Authority in determining the issues which have been identified, the following material has been provided:

- (i) copies of correspondence between the offender and other inmates;
- (ii) a report of Dr Joshua Roose of 11 November 2024;
- (iii) a Countering Violent Extremism (CVE) Programs Assessment Report of Maggie Cruickshank and Katrina Czerkies, Forensic Psychologists, Corrective Services New South Wales, dated 16 September 2022 (“the CVE Report”);
- (iv) a report of Daniel Pumphrey, Acting Manager, CVE Programs, of 20 August 2024 (“the PRISM [Proactive Integrated Support Model] Report”);
- (v) a “PRISM Service Summary” under the hand of Clare Nealon, Acting Therapeutic Manager, of 6 November 2024 (“the Summary Report”).

13. The Authority has also had made available to it material in respect of which a certification has been made pursuant to s 194 of the Act. In those circumstances, the content of that material will not be disclosed<sup>1</sup>, but it has been taken into account in the Authority’s decision.

## ANALYSIS OF THE EVIDENCE

### **The correspondence between the offender and other inmates**

14. The correspondence between the offender and others with which the Authority has been provided extends to more than 800 pages. For present purposes, it is sufficient to note that the offender corresponds regularly with a number of inmates including Talal Alameddine, Milad Atai, Mustafa Dirani, Omar Al-Kutobi, Mohammed Kiad, Radwan Dakkak, Isaac el Matari, Bourhan Hriachie, Tamim Khaja, and Hamid Al Qudsi, all of whom have been convicted of terrorism-related offending.<sup>2</sup> It is accepted by the State that none of the offender’s correspondence expressly supports acts of terrorism.<sup>3</sup>

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<sup>1</sup> S 194(1A) of the Act.

<sup>2</sup> See the summaries provided by the State in its submissions at [36]–[50].

<sup>3</sup> Submissions at [34].

However, the State submits that the correspondence remains significant for the reasons referred to by Dr Roose and which are discussed below.

### The report of Dr Roose

15. Dr Roose is an Associate Professor of Politics at Alfred Deakin University, and a scholar of political and religious extremism in Australia. He has been familiar with the offender as a radical Islamic teacher for more than a decade.<sup>4</sup> He reported that the offender:

- (i) was linked to *Millatu Ibrahim*, a Salafist organisation, in 2014;<sup>5</sup>
- (ii) gave lectures under the auspices of that organisation in front of a banner depicting the Islamic State Flag;<sup>6</sup>
- (iii) was linked to the *Al Furqan Centre* in Melbourne which promoted violent Jihad;<sup>7</sup>
- (iv) had publicly supported Numan Haider, who carried out a terrorist attack in Melbourne in 2014 in which two police officers were stabbed;<sup>8</sup>
- (v) was an associate of Amir Millson and Muhammad Sheglabo, both of whom were members of the Islamic State movement;<sup>9</sup>
- (vi) had posted messages on social media in relation to what is colloquially known as the *Charlie Hebdo incident*, a terrorist attack which occurred in January 2015 in Paris, in which he asserted that the attack was a reasonable response to the insult of a religious figure;<sup>10</sup>
- (vii) had posted messages on social media supportive of leaders of Islamic State;<sup>11</sup>
- (viii) had supported Sheikh Othman al Nazih, a key Islamic State leader;<sup>12</sup>
- (ix) had:
  - (a) demonstrated a “strong alignment with Salafist Jihadist Ideology”, specifically Islamic State, which remains active;
  - (b) associated with individuals within Australia who have for the Islamic State abroad;

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<sup>4</sup> At [10].

<sup>5</sup> At [15]–[16].

<sup>6</sup> At [17].

<sup>7</sup> At [21]–[23].

<sup>8</sup> At [21]–[23].

<sup>9</sup> At [24].

<sup>10</sup> At [25]–[27].

<sup>11</sup> At [30]–[33].

<sup>12</sup> At [30]–[33].

- (c) expressed support for terrorist acts and violent extremism; and
- (d) been linked to individuals who have advocated, supported, or engaged in acts of terrorism or violent extremism.<sup>13</sup>

16. Dr Roose also undertook an analysis of the correspondence with which the Authority has been provided. He accepted that it did not contain any direct reference(s) to, or expression(s) of support for, terrorist acts or violent extremism.<sup>14</sup> However, Dr Roose saw the significance of the correspondence to lie, at least in part, in the identity of those with whom the offender was corresponding,<sup>15</sup> This was particularly so in circumstances where Dr Roose noted that the offender would have been aware that such correspondence would be monitored, and expressed the view that it was a likely consequence that the offender *“did not go into substantive detail on his religious beliefs, in contrast to his very active social medial presence when he was not imprisoned”*.<sup>16</sup> Further, Dr Roose expressed the view that even in the absence of explicit expressions of support for terrorist acts, the correspondence continued to reflect a strong adherence to Salafist ideology to which, in Dr Roose’s opinion, the offender had previously expressed an adherence and from which he had obviously never resiled.<sup>17</sup>

### The Countering Violent Extremism (CVE) Report

17. The CVE Report was prepared following an assessment of the offender’s current extremist risk factors. It canvassed, in considerable detail, the offender’s background, his education and employment history, his mental health history and his forensic history.

18. For present purposes, it is significant that the report noted that the offender had not, since his imprisonment, demonstrated any change in his views, which may have *“prevented the formation of stronger ties with the broader cohort of inmates who continue to subscribe to violent extremist ideology ...”*.<sup>18</sup> It was also noted that other inmates appear to continue to view the offender as *“a source of religious authority”*.<sup>19</sup> It is

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<sup>13</sup> At [34]–[36].

<sup>14</sup> At [43].

<sup>15</sup> At [50].

<sup>16</sup> At [39].

<sup>17</sup> At [49]–[50].

<sup>18</sup> At [70].

<sup>19</sup> At [70].

reasonable to infer that such religious authority reflects the expression of extremist views of the kind identified by Dr Roose.

19. The report went on to make various recommendations about a treatment pathway in custody for the offender.<sup>20</sup>

### **The Proactive Integrated Support Model (PRISM) Report**

20. The CVE Programs Report notes that the offender has, since July 2023, consistently engaged positively in the PRISM Program in custody.<sup>21</sup> That Program is directed towards “*building resilience to radicalisation through diversion, disengagement, and desistance*”.<sup>22</sup>

### **The Summary Report**

21. The Summary Report confirms the offender’s engagement in the PRISM program, extending over approximately 44 sessions with various providers.<sup>23</sup> It notes that the offender “*continues to engage with PRISM and presents as willing to discuss issues relevant to his intervention plan*”.<sup>24</sup>

22. The statements made in the PRISM Report and the Summary Report regarding the offender’s engagement in the PRISM program might, at face value, support a conclusion that he has been engaging positively. However, it has to be said that such statements do not sit entirely comfortably with the objective fact that the period of such participation coincides, at least in part, with the offender’s correspondence with other inmates convicted of terrorism related offending, about which Dr Roose made adverse comment.

## **SUBMISSIONS OF THE PARTIES**

### **Submissions of the State**

23. The submissions of the State may be distilled into two fundamental propositions.

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<sup>20</sup> Commencing at [72].

<sup>21</sup> At [1].

<sup>22</sup> At [2].

<sup>23</sup> At [6].

<sup>24</sup> At [7].



24. The first, is that the offender is a terrorism related offender to whom Division 3A applied.<sup>25</sup> In support of that submission the State relied, in particular, on the provisions of s 159B(1)(d) of the Act, and the acts of the offender in (inter alia) promoting extremist ideology on social media.<sup>26</sup> The State also relied on s 159B(1)(e) of the Act, and the correspondence in which the offender engaged to which reference has been made.

25. The second, is that in terms of s 159C(2), the Authority could not reach a state of satisfaction that the offender will not engage in the conduct to which that sub-section is directed. In this regard, the State relied primarily on the CVE Report, particularly that part of the report which made reference to the offender maintaining his previously expressed extremist views.<sup>27</sup>

### Submissions of the Offender

26. The offender did not concede that he is a terrorism related offender, and emphasised that he has never been charged with a terrorism-related offence.<sup>28</sup> In this regard, the offender took issue with the opinions of Dr Roose, on the basis that such opinions had, as their foundation, “*media articles rather than proven facts or corroborative evidence*”.<sup>29</sup>

27. As to the State’s reliance on the correspondence between the offender and other inmates, and Dr Roose’s opinions in relation to it, it was submitted that there had been no indication that the offender had engaged in such correspondence since May 2024,<sup>30</sup> and that it was important to bear in mind that for the most part, the correspondence had been sent at a time when the offender was subject to long periods of isolation and confinement, to the point where the correspondence should be categorised as “*personal or casual*”.<sup>31</sup>

28. It appeared to be accepted by counsel for the offender that it “*may be the case*” that the Authority finds that the offender is a terrorism related offender for the purposes of

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<sup>25</sup> Submissions at [3].

<sup>26</sup> Submissions at [57].

<sup>27</sup> Submissions at [63].

<sup>28</sup> Submissions at [23] – [24].

<sup>29</sup> Submissions at [32].

<sup>30</sup> Submissions at [40].

<sup>31</sup> Submissions at [43].

Division 3A.<sup>32</sup> However, it was submitted that no actual risk could be identified, the Authority “should not deny this offender the opportunity to be released on parole on the basis of historic comments made on social media, letters sent in custody which do not include any express support of violent extremism or terrorist actions ... in circumstances where the offender has engaged appropriately with targeted treatment and has not demonstrated any concerning institutional behaviour for a significant period of time”.<sup>33</sup>

29. The offender also relied on the views expressed by Community Corrections and the post-release plans which had been put in place to ensure the safety of the community upon release.<sup>34</sup>

## CONSIDERATION

Is the offender an offender to whom Division 3A applies?

30. Division 3A applies only to terrorism related offenders.<sup>35</sup> The offender’s case has proceeded on the basis that in order for that conclusion to be reached, the Authority must be satisfied that the offender is a person who:

- (i) is making or has previously made any statement (or is carrying out or has previously carried out any activity) advocating support for any terrorist act or violent extremism;<sup>36</sup> or
- (ii) who has or previously had any personal or business association or other affiliation with any person, group of persons or organisation that is or was advocating support for any terrorist act or violent extremism.<sup>37</sup>

31. For the purposes of those provisions, the term “*terrorist act*” has the same meaning as it has in Part 5.3 of the *Commonwealth Criminal Code* which is as follows:

***terrorist act*** means an action or threat of action where:

(a) the action falls within subsection (2) and does not fall within subsection (3); and

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<sup>32</sup> Submissions at [50].

<sup>33</sup> Submissions at [55].

<sup>34</sup> Submissions at [62] and following.

<sup>35</sup> See the definition of “*terrorism related offender*” in s 159A along with the provisions of s 159B which sets out those persons to whom Division 3A applied.

<sup>36</sup> Section 159B(1)(d).

<sup>37</sup> Section 159B(1)(e).

*(b) the action is done or the threat is made with the intention of advancing a political, religious or ideological cause; and*

*(c) the action is done or the threat is made with the intention of:*

- (i) coercing, or influencing by intimidation, the government of the Commonwealth or a State, Territory or foreign country, or of part of a State, Territory or foreign country;*
- or*
- (ii) intimidating the public or a section of the public.*

**Elements of the definition of terrorist act**

*(2) Action falls within this subsection if it:*

- (a) causes serious harm that is physical harm to a person; or*
- (b) causes serious damage to property; or*
- (c) causes a person's death; or*
- (d) endangers a person's life, other than the life of the person taking the action; or*
- (e) creates a serious risk to the health or safety of the public or a section of the public;*
- or*
- (f) seriously interferes with, seriously disrupts, or destroys, an electronic system including, but not limited to:*

- (i) an information system; or*
- (ii) a telecommunications system; or*
- (iii) a financial system; or*
- (iv) a system used for the delivery of essential government services; or*
- (v) a system used for, or by, an essential public utility; or*
- (vi) a system used for, or by, a transport system.*

*(3) Action falls within this subsection if it:*

- (a) is advocacy, protest, dissent or industrial action; and*
- (b) is not intended:*

- (i) to cause serious harm that is physical harm to a person; or*
- (ii) to cause a person's death; or*
- (iii) to endanger the life of a person, other than the person taking the action;*
- or*
- (iv) to create a serious risk to the health or safety of the public or a section of the public.*

32. The expression "violent extremism" as it is used in s 159B(1)(d) and (e) is not defined in the Act. However, the Authority has previously observed that it can be understood to mean the engagement in acts involving violent behaviour that are motivated or driven by extreme beliefs, whether religious or otherwise, that present a risk to the safety of the members of the community.<sup>38</sup>

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<sup>38</sup> See Determination in the matter of *Mayward Osman* of 29 June 2018.

33. There is, quite simply, a plethora of evidence in the present case that the offender has previously made statements advocating support for terrorist acts or violent extremism. That evidence is contained principally in the report of Dr Roose, and has been summarised above. Importantly, the CVE Report specifically alluded to the fact that the offender's previously expressed views have not changed. In those circumstances, the offender is clearly a terrorism related offender within the meaning of s 159B(1)(d) of the Act.

34. Moreover, the correspondence in which the offender engaged with other inmates supports a conclusion that he is a terrorism related offender within the meaning of s 159B(1)(e) of the Act. The only available inference from the charges of which those other inmates were convicted is that they were advocating support for terrorist acts or violent extremism. Clearly, the offender had a personal association with them. In all of these circumstances, the requirements of s 159B(1)(e) are satisfied.

35. To the extent that the offender took issue with the report of Dr Roose it is necessary to note four matters.

36. The first, is that in making its determination, the Authority is not bound by rules of evidence and may inform itself in such manner as it thinks appropriate.<sup>39</sup> The obvious (but sole) fetter in that regard, is that the material by which the Authority informs itself must be relevant to, and probative of, the issue(s) before it. The report of Dr Roose clearly meets that test.

37. The second, is that it is not correct to assert, as was submitted on the offender's behalf, that Dr Roose's report is based on media articles and proven facts. Dr Roose expressed familiarity with, and knowledge of, the offender, over a period of 10 years.

38. The third, is that to the extent that Dr Roose's report contained his opinions, his Curriculum Vitae renders him appropriately qualified to express them.

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<sup>39</sup> Cl 11(3) of Sch 1 to the Act.

39. The fourth, is that it was made clear at the hearing that arrangements could be made to have Dr Roose available for cross-examination. After being given the opportunity to obtain instructions, counsel for the offender did not seek to take that course.<sup>40</sup> Accordingly, Dr Roose's evidence is entirely unchallenged. That, of course, does not mean that such evidence should be accepted without scrutiny. At the same time, the absence of any challenge to any aspect of it fortifies the Authority's comfortable satisfaction that its contents should be accepted.

40. For all of these reasons, the Authority is satisfied that the offender is a terrorism related offender for the purposes of Division 3A.

#### Can the Authority be satisfied in terms of s 159C(1)(a)?

41. Having reached the conclusion that the offender is a terrorism related offender, s 159C(1)(a) mandates that the Authority must not make a parole order directing the offender's release unless it is satisfied that the offender ***will not engage in, or incite or assist others to engage in, terrorist acts or violent extremism***. That, in the Authority's view, is an assessment which is to be undertaken holistically by reference to the entirety of the available evidence, and not in a piecemeal way.

42. At the risk of stating the obvious, s 159C(1)(a) imposes a high bar. That high bar is reflected in the use of the term "*will not*". The practical effect of the obviously deliberate use of that term by the Parliament, is that unless the Authority is satisfied that the offender will not engage in the proscribed conduct – or in other words, unless the Authority is satisfied that such conduct on the part of the offender ***will not happen*** – it must not make a parole order.

43. In the circumstances of the present case, that state of satisfaction simply cannot be reached. The evidence establishes that the offender:

- (i) is known as a radical Islamic teacher;
- (ii) is linked to Salafist organisations;
- (iii) is strongly aligned with Salafist ideology;

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<sup>40</sup> Transcript 3.44.

- (iv) chose to correspond in custody with a series of persons who have been convicted of serious terrorism-related offences;
- (v) has a history of making public statements supportive of:
  - (a) terrorist organisations, including Islamic State; and
  - (b) terrorism-related events;
- (vi) is linked to persons identified as being actively supportive of terrorist organisations; and
- (vii) is known to hold extremist beliefs from which he appears not to have resiled.

44. When viewed as a whole, this evidence runs entirely contrary to a state of satisfaction that the offender will not engage in terrorist acts or violent extremism.

45. The Authority acknowledges the support of Community Corrections with respect to the offender's release. That would certainly be a matter relevant to a consideration of s 135 of the Act. But in a case where Division 3A applies, and where the Authority:

- (i) comes to the view that the offender is a terrorism related offender; and
- (ii) cannot be satisfied that he will not engage in terrorist acts or violent extremism,

the Authority *must not make* a parole order.

46. Having reached that position in the present case, any consideration of s 135 is rendered otiose.

## ORDER

47. Pursuant to s 159C(1) of the *Crimes Administration of Sentences Act 1999* (NSW), the Authority refuses to make a parole order in favour of the offender, for the reasons given.

31 March 2025