



HIGH COURT OF AUSTRALIA

14 October 2026

SMITH v CHIEF EXECUTIVE, QUEENSLAND CORRECTIVE SERVICES & ORS [2026] HCA 37

Today, the High Court allowed an appeal from the Court of Appeal of the Supreme Court of Queensland. The issue was whether the extraction and freezing of a prisoner's eggs falls within the meaning of "assisted reproductive technology" under s 22(2) of the *Corrective Services Act 2006* (Qld) ("the CS Act"). Section 22(2) of the CS Act relevantly prohibits a prisoner from applying for approval to participate in, or participating in, "assisted reproductive technology". The phrase "assisted reproductive technology" is not defined in the CS Act.

The appellant, Ms Smith, is a prisoner in a corrective services facility who wishes to undergo treatment to extract and freeze her eggs while incarcerated. Ms Smith will be 39 on her parole eligibility date and 41 when her sentence expires. It was not disputed that there is a statistical reduction in a female's fertility between the age period of 33 to 35 years, and the age period of 39 to 41 years. Accordingly, Ms Smith is likely to experience a material reduction in her fertility prior to her release on parole. Ms Smith applied to the first respondent, the Chief Executive of Queensland Corrective Services ("the Chief Executive"), under s 22(1) of the CS Act for approval to receive treatment at her own cost for the extraction and freezing of her eggs. The Chief Executive refused Ms Smith's request on the basis that egg extraction and freezing constituted "assisted reproductive technology" within the meaning of s 22(2) of the CS Act.

Ms Smith applied for a statutory order of review of the Chief Executive's decision in the Supreme Court of Queensland, contending that while s 22(2) of the CS Act prohibits prisoners from using technology to assist them to conceive in custody, it does not prohibit prisoners from using technology to preserve their ability to conceive once released. The primary judge dismissed Ms Smith's application, finding that the ordinary meaning of the phrase "assisted reproductive technology" includes the processes of egg extraction and freezing. The Court of Appeal dismissed Ms Smith's appeal.

The High Court unanimously held that, properly construed, the phrase "assisted reproductive technology" does not include egg extraction and freezing, which involve technology that assists to preserve fertility. Section 22(2) of the CS Act does not prohibit Ms Smith from applying for approval to receive medical treatment that would allow her to extract and freeze her eggs so that she may preserve her fertility and choose whether to have a child once she leaves prison.

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.