

**IN THE HIGH COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY**

**I TE KŌTI MATUA O AOTEAROA
ŌTAUTAHI ROHE**

CRI-2019-009-2468

THE QUEEN

v

BRENTON HARRISON TARRANT

Counsel: M Zarifeh and B Hawes for Crown
S Tait and J Hudson for Defendant

Date of Minute: 2 July 2020

MINUTE OF MANDER J

[1] On 26 March 2020 the defendant pleaded guilty to 51 charges of murder, 40 charges of attempted murder and a charge of committing a terrorist act. He has since been the subject of successive remands pending the setting of a sentencing date.

[2] The defendant's pleas were entered on the day stringent public health measures were introduced in response to the COVID-19 pandemic. This meant only those required to be present in court could attend. The defendant and his counsel attended by audio visual link. Now, in the absence of community transmission of the COVID-19 virus in New Zealand, our courts have returned to normal operations. The public and, importantly, victims and their families living in New Zealand can attend court sittings.

[3] However, the global pandemic has severely impacted on international travel. With limited exceptions, New Zealand's borders are closed to everyone other than

citizens and residents.¹ Everyone entering the country is required to undergo a 14-day period of managed isolation. This situation is placing significant constraints on the ability of persons overseas to enter the country. Over the last three months inquiries have been undertaken at the request of the Court to assess potential steps to assist victims and family members to travel to New Zealand to attend the sentencing or otherwise facilitate their participation in the sentencing hearing.

[4] The Court requested that victims and family members who are New Zealand citizens or residents, and who are currently abroad, be contacted with a view to canvassing appropriate travel arrangements with them and with the respective local overseas authorities to allow them to return to New Zealand for the sentencing. Victim Support, which is responsible for administering the Victim Assistance Scheme, advises that while preliminary logistics planning is underway, until a sentencing date is set no firm travel arrangements can be made. Some victims need to know the date before they can commit to travel because of their other responsibilities and commitments. There are a number of difficulties associated with making these arrangements, including obtaining the cooperation of transit countries and securing suitable flights. Any persons returning will have to abide by the 14 day quarantine requirement.

[5] The Ministry of Justice (the Ministry) has been liaising with Immigration New Zealand (INZ) in an effort to obtain advice regarding whether identified victims and support persons who are overseas but not New Zealand residents or citizens can have their travel facilitated and be permitted to enter New Zealand under the “limited exceptions” process that is administered by that agency. The Ministry has been advised of details of the application process and the particular requirements that an individual would have to meet to be granted a visa to enter the country under that scheme. However, INZ has been unable to confirm whether the “limited exceptions” process can be made available to overseas victims and their families. Because of the uncertainty about whether and how the process would apply, I am advised that the Ministry has not been able to advance this possibility with overseas victims.

¹ <https://www.immigration.govt.nz/about-us/covid-19/border-closures-and-exceptions>.

[6] The Court has requested that it be provided with the best available information as to when the border might realistically be expected to be opened to non-citizens and non-residents. Perhaps unsurprisingly, having regard to the present global situation, the advice received is that it is not possible to state with certainty when the New Zealand border is likely to reopen. Such a step would be dependent upon the course of the COVID-19 virus overseas and the development of medical solutions such as vaccines or treatments. There is no discernible timeframe within which it can be confidently expected the present travel restrictions will be lifted.

[7] Because a number of victims are resident in Australia, inquiries were also made regarding whether and when trans-Tasman travel may be possible. Again, however, the advice received is that it is simply not possible to provide an estimate. While the Australian and New Zealand governments are in discussion, each country would have to be confident that the other does not have community transmission and can adequately manage imported cases. The situation in some states of Australia remains in a state of flux, as does the impact of the pandemic internationally. Recent media reports indicate growing infection rates and there is no discernible timeframe as to when the global emergency will end.

[8] The Ministry has additionally provided the Court with information and advice sourced from support groups and victims advisors who are working with victims and their families in New Zealand. The added trauma to victims from having to cope with the justice process is a particular concern for the Court. A range of views have been expressed by victims and their families regarding their participation in the sentencing process and the timing of the sentencing hearing. Some wish to have sentencing completed, while those victims and support people who are overseas have expressed a preference to delay sentencing until they can attend in person.

[9] While some victims have adequate support from family members and extended family who live in New Zealand, there is a smaller number who wish to have overseas-based family members with them for support during the sentencing hearing. However, waiting for changes to the border controls will likely result in a very extended period of delay. I am also aware that many of the victims have found the elongated court process to be exhausting and frustrating. They wish sentencing to happen as soon as

realistically possible. Finality and closure is considered by some as the best means of bringing relief to the Muslim community.

[10] The Court is acutely aware of the varying preferences of victims and their families, and in particular the situation of those who are overseas and unable to travel. It had been anticipated at the time the defendant entered his pleas, when the Court was effectively closed to the public, that all persons who wished to attend the court in person for the sentencing would be able to do so. However, as matters can presently best be gauged, the state of the pandemic overseas and the ongoing uncertain environment means the border will likely remain closed for a prolonged period into the future. In the meantime the proceeding will continue to drift. That is an unsatisfactory situation.

[11] Having given the matter considerable thought, I consider the preferable course in the circumstances is to set the sentencing of the defendant down for hearing on ***Monday 24 August 2020 at 10 am***. The best estimate is that three days will be required, but the hearing will take as long as is necessary. It is anticipated that this date will allow adequate time for necessary arrangements to be made to permit those persons who can enter New Zealand to travel and comply with the necessary quarantine measures. It should also provide a sufficient period to determine whether the “limited exceptions” process can be utilised to facilitate the attendance of other people, in particular victims and persons supporting families of the deceased who are not New Zealand citizens or residents.

[12] The Ministry has confirmed that appropriate technology will be put in place to allow persons who are currently based overseas and unable to travel to view the sentencing hearing and participate remotely. The options include providing those persons with a livestreaming link to enable them to view the hearing and the provision of video conferencing facilities. The latter technology will allow a victim to present their victim impact statement and communicate with the courtroom.

[13] It is hoped that by setting a date for sentencing some certainty and reassurance will be provided to those victims and their families who wish to have the criminal proceeding concluded and allow them to obtain some level of closure that would not

otherwise be possible if the matter remains in its open ended state. I consider this to be the better course in the circumstances when weighed against the presently rather forlorn prospects of the effects of the COVID-19 pandemic sufficiently abating in the foreseeable future to enable unrestricted international travel and permit the New Zealand border to reopen.

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