

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

**I TE KŌTI MATUA O AOTEAROA  
TĀMAKI MAKĀURAU ROHE**

**CIV-2020-404-616  
[2020] NZHC 883**

UNDER the Judicial Review Procedure Act 2016

AND

IN THE MATTER of an application for judicial review of  
decisions made pursuant to an order under  
s 70(1)(f) of the Health Act 1956

BETWEEN OLIVER CHARLES CHRISTIANSEN  
Applicant

AND THE DIRECTOR-GENERAL OF HEALTH  
Respondent

Hearing: 1 May 2020

Appearances: SWB Foote QC and AM Cameron for Applicant  
A Martin and IS Auld for Respondent (appearing by AVL)

Results: 1 May 2020

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**ORAL JUDGMENT OF WALKER J  
[RESULTS]**

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## Results

[1] In the urgent circumstances of this application I am providing the parties with my determination. I will provide full reasons shortly. I grant interim relief to the applicant.

[2] In this particular case, there is a very strong argument, in my judgment, that the permission for Mr Christiansen to visit his dying father was not considered on the correct legal grounds and did not take account of relevant mandatory considerations. It had the hallmarks of automatic rejection based on circumscribed criteria rather than a proper exercise of discretion required by the Health Act (Managed Air Arrivals) Order.<sup>1</sup> Indeed, the respondent responsibly acknowledges that on the face of the documentary record, one of the grounds of review can be made out. The respondent advises that it is in the process of urgent reconsideration.

[3] This places the Court in an unusual position. However, my assessment is that overall justice demands an effective and swift response by the Court in these exceptional circumstances. I have in mind here particularly the imminence of Mr Christiansen's father's passing and the very material factor that visitation is only at a private home and not in a public space.

[4] I therefore make the following orders:

- (a) Requiring the respondent to permit Mr Christiansen to leave Managed Isolation prior to the end of his 14-day isolation period at the Central City facility for the purposes of visiting his terminally ill father.
- (b) The release is on condition that Mr Christiansen complies with the following conditions:
  - (i) To travel by private car, unaccompanied, to his father's home address and remain there until his father passes;

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<sup>1</sup> Dated 9 April 2020 as amended.

- (ii) To maintain physical separation from other family members at the home address;
- (iii) To return on his own within 24-hours of his father's passing by the same private car to the Managed Isolation Facility for the remainder of the duration of his 14-day isolation period (should that be required);
- (iv) To ensure that any necessary cleaning and/or quarantining of that private car is carried out;
- (v) To wear personal protective equipment as directed by the Ministry of Health, including gloves and a face-mask;
- (vi) To comply with any monitoring requirements by Police and/or officials; and
- (vii) To comply with any other reasonable conditions directed by the respondent to reduce any risk of transmission, such conditions to be notified by the respondent to Mr Christiansen by 12.15 pm today.

[5] These orders are to lie in Court until **12.00 pm today, Friday 1 May 2020**.

[6] The parties have leave to apply, and I will make myself available at short notice if any practical problems arise.

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**Walker J**