

**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

Hearing: 26 March 2020
Appearances: M Zarifeh and B Hawes for Crown
S Tait and J Hudson for Defendant
Date of Minute: 26 March 2020

MINUTE OF MANDER J

[1] Earlier this week the Court received an indication from the defendant's counsel that he may seek to change his plea to the charges. Yesterday, counsel received formal written instructions to that effect. A formal request was then made by the defendant that he be brought before the Court, in accordance with s 42(1) of the Criminal Procedure Act 2011, to change his plea.

[2] As a result of that request the charges have been put to him this morning. He has pleaded guilty to 51 charges of murder, 40 charges of attempted murder and the charge of committing a terrorist act. He has been convicted of each and every one of those charges. There is now no need for a trial and the six week hearing set down for June can be vacated.

[3] An obvious difficulty with the Court dealing with this unforeseen development that arose only this week, was to do so in the face of the far-reaching and extensive

public health measures that have been in place since last Monday in response to COVID-19, and that culminated last night with the escalation to alert level 4 with its severe restrictions on travel and requirements that the public are to remain in self-isolation at home. As is well-known, this state of affairs is expected to remain in place for some four weeks, if not perhaps longer.

[4] The defendant's counsel requested that Mr Tarrant be brought before the Court as soon as practicably possible. The Crown also requested that the defendant be immediately brought before the Court for the purpose of having the charges put to him. Both sets of counsel requested the matter be expedited

[5] Despite the severe restrictions on movement and assembly to which New Zealand is presently subject, the courts are an essential service. Notwithstanding the present national emergency, the Court retains its ability to convene to deal with priority proceedings providing that can be done without compromising people's health.

[6] I considered that the Court had the capacity to safely deal with this matter by permitting the defendant and his counsel, with their consent, to appear by way of audio-visual link (AVL) and by limiting the number of people permitted to be present in the courtroom to the barest number.

[7] Presently in this very large courtroom, apart from myself, there are only three members of staff, two lawyers, six members of the media, one member of police, one security officer, and Mr La Fraie, and Messrs Alibi and Fouda from the Linwood and Al Noor mosques – a total of 17 people – all of whom are deliberately spread out and sitting considerable distances apart from each other in this very large space.

[8] For obvious reasons of health and safety that apply at this extraordinary time, the number of people who can be present in the courtroom is severely limited. It is regrettable that the COVID-19 restrictions that presently apply prevented the victims and their families from being able to travel and be present when the defendant entered his pleas of guilty.

[9] In an effort in some small way to mitigate the unfortunate circumstances that leaves victims and their families excluded from the courtroom, arrangements were made to bring Messrs Alibi and Fouda to the Court to bear witness on behalf of the worshippers of their respective mosques. Similarly, Mr La Fraie, who is presently in Court, and Ms Grau and Mr Rasheed, with whom an audio link has been established (being lawyers who have been involved with the victims), have been able to be present, albeit two of them only from afar.

[10] It was my assessment that the taking of the defendant's pleas at this time was the appropriate course in the circumstances. The entry of guilty pleas represents a very significant step towards bringing finality to this criminal proceeding, and I considered the need to take the opportunity to progress the matter was particularly acute coming, as it has, at a time when the risk of further delay as a result of COVID-19 was looming as a realistic possibility.

[11] There is no intention to sentence the defendant before the Court returns to its normal operation, and at a time when victims and their families can attend Court in person. The defendant has been remanded to 1 May, but that is only a nominal date. It is hoped that a date for the sentencing hearing will be able to be confirmed in the interim. As I say, it is fully anticipated that all who wish to attend Court for the sentencing hearing will be able to do so in person.

[12] Despite the defendant having provided his counsel with written instructions of his intention to change his plea to guilty and he having now done so, there was of course no guarantee that when the charges were read to him this morning he would in fact do so. It was therefore necessary to suppress the fact that the matter was being called and the purpose of the hearing.

[13] Section 43 of the Criminal Procedure Act provides that where a defendant indicates an intention to plead guilty but does not go ahead and plead guilty, the defendant must be treated in all respects as if he or she had not indicated any intention to plead guilty, and no comment may be made in any subsequent proceedings of that fact. The fact that a defendant has indicated an intention to plead guilty is not admissible in evidence against a defendant. It follows that any prior publication or

disclosure to the public of the defendant's intention to plead guilty had the potential to prejudice his trial and taint the jury pool with information that should not be within their knowledge.

[14] For that reason no prior notice was able to be provided to the victims and their families of the defendant's intention to plead guilty, nor of the convening of this morning's hearing. Because of that requirement and the circumstances that prevent them being here today, were I to permit members of the media to immediately report on the content and outcome of this morning's hearing, it is likely that the first those persons - victims and their families - would hear of this significant development, in which they have so much invested, would be through the media, in the same way as the general public. That would be an undesirable state of affairs and is directly linked with having to proceed in their absence.

[15] To try and avoid that situation or, at least, to some degree mitigate the impact on the victims and their families' of the lost opportunity to immediately learn of the defendant's change of plea first-hand by attending Court, I intend to embargo publication of any report about this morning's hearing for one hour – that is until 11.30 am this morning. The police and Victim Support Advisors have made arrangements in anticipation of the defendant pleading guilty to notify victims and their families as soon as possible. I would ask for your forbearance in permitting them the opportunity to carry out that task. There will be an interim suppression order suppressing publication of the fact of this morning's hearing and the content and outcome of the hearing, including of course the fact that the defendant has changed his pleas until 11.30 am.

Solicitors:
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