

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

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

**CRI-2019-009-2468**

**THE QUEEN**

v

**BRENTON HARRISON TARRANT**

Counsel: M Zarifeh and B Hawes for Crown  
Defendant in Person  
PHB Hall QC as Standby Counsel

Date of Minute: 3 August 2020

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**MINUTE OF MANDER J**

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[1] The Court has received applications from three media outlets (the applicants) for access to the court file in this case. This minute outlines how the Court intends to approach those applications.

**Law**

[2] The Senior Courts (Access to Court Documents) Rules 2017 (the Rules) govern the access granted to the public, including the media, in regard to court documents. Rules 8(3) and (4) provide the general rights of access in criminal proceedings:

(3) Every person has the right to access the following relating to a criminal proceeding, except as provided in subclause (4):

(a) the permanent court record under Part 7 of the Criminal Procedure Rules 2012:

- (b) any published list providing notice of a hearing:
  - (c) any judgment, order, or minute of the court given in the proceeding, including any records of the reasons given by a judicial officer:
  - (d) any judicial officer's sentencing notes.
- (4) Without limiting rule 6(a), a person may access the following documents in a criminal proceeding only if a Judge permits the person to do so:
- (a) any pre-trial judgment, order, or minute in a criminal proceeding, including any bail judgment, order, or minute:
  - (b) any document containing evidence of a complainant or of a person who gives or intends to give propensity evidence:
  - (c) electronically recorded documents of interviews with a defendant:
  - (d) any document that identifies, or enables the identification of, a person if the publication of any matter relating to the person's identity (such as the person's name) is forbidden by an enactment or by an order of the court or a Registrar:
  - (e) any document received, or any record of anything said, in a proceeding while members of the public are excluded from the proceeding by an enactment or by an order of the court:
  - (f) any document containing evidence provisionally admitted into evidence and any document containing evidence that has been ruled inadmissible by the court.

### **Permanent court record**

[3] As per r 8(3)(a), the applicants may have full access to the permanent court record. The contents of the permanent court record are set out in r 7.2 Criminal Procedure Rules 2012.

## **Judgments, orders and minutes**

[4] Rule 8(3)(c) provides that the public may access any judgments, orders or minutes. That is subject to the Judge's discretion under r 8(4)(a), given the judgments in this case were all made pre-trial. Having reviewed the judgments, orders and minutes in this proceeding, I grant the applicants access to all decisions in this proceeding except the following:

- (a) the minute of 4 March 2020 regarding standby counsel;
- (b) the minute of 23 December 2019 regarding victim representation;
- (c) the minute of 30 September 2019 regarding victim representation; and
- (d) minutes since 22 June 2020 that largely relate to the sentencing on 24 August.

[5] The fact that the applicants are granted access to the remainder of the decisions does not mean they are entitled to full publication of those decisions. The suppression orders already in place on those decisions will continue to apply, subject to the following amendments and additional orders:

- (a) I order that the last sentence of para [53] in my reasons judgment of 28 February 2020 be suppressed.
- (b) I order that the unredacted version of my judgment of 19 December 2019 be suppressed. The applicants may publish the contents of the redacted version of that judgment.
- (c) I lift the suppression order made in my decision of 3 October 2019 regarding the timing of the defendant's instruction to abandon his application for change of venue.
- (d) I order that paras [15]-[22] and [40] in my judgment of 3 September 2019 be suppressed.

- (e) I order that the table attached to my minute of 1 May 2019 be suppressed.
- (f) All orders prohibiting publication until final disposition are lifted. Subject to the above orders, and any other orders in the decisions to be released, the applicants may now publish prior to sentencing.

### **Remainder of the court file**

[6] The court file is the “collection of documents in the custody or control of the court that relate to a civil proceeding or a criminal proceeding”.<sup>1</sup> It is broader than those documents that make up the permanent court record and the judicial decisions. Where not covered by r 8, access to the court file is governed by rr 11 and 12. Those rules outline the matters to be considered by the Judge in determining a request for access, and provide that if access is granted it may be in whole or in part and may be subject to conditions.

[7] The Court is currently in the process of determining which documents on the court file can be made available to the media and, beyond that, what material will be allowed to be published.

[8] The defendant is opposed to certain documents being released on the basis that they contain private information about the defendant, private or privileged correspondence, or objectionable material. There is also a concern that the release of some documents could cause security or safety issues.

[9] The Crown objects to the release to the media of the balance of the court file save for the summary of facts (although only for limited purposes and not presently for publication). It submits that the file contains a large amount of private or sensitive information and that none of the formal statements have been tested at trial or made public. In the event the Court does grant access to other parts of the file, the Crown submits that a number of documents should be withheld or redacted where they raise the concerns stated above. If access is to be granted, the Crown seeks the opportunity

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<sup>1</sup> Senior Courts (Access to Court Documents) Rules 2017, r 4.

to check the material and make further submissions. It is appropriate that this be permitted.

[10] Subject to the Court making any further determinations regarding the remainder of the court file and pending completion of sentencing, at this stage there will be no access beyond that outlined above at [4]-[5].

Solicitors:  
Crown Solicitor, Christchurch  
Philip Hall Queen's Counsel, Christchurch

Copy to:  
Mr Tarrant