

**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**

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

Date of Minute: 18 August 2020

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**MINUTE OF MANDER J  
Arrangements for sentencing under COVID-19 alert level 2**

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[1] The sentencing of Brenton Harrison Tarrant on 51 charges of murder, 40 charges of attempted murder, and a charge of having engaged in a terrorist act will proceed in the High Court at Christchurch on Monday 24 August as scheduled.<sup>1</sup> The sentencing will take place in open court as is required by law.<sup>2</sup>

[2] However, the heightened public health measures now in place throughout New Zealand in response to the re-emergence of the COVID 19 virus in Auckland, have required the Court to adapt the arrangements which were in place to accommodate the large numbers expected to attend the hearing.

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<sup>1</sup> Crimes Act 1961, ss 172 and 173(1); and Terrorism Suppression Act 2002, s 6A.

<sup>2</sup> Criminal Procedure Act 2011, s 197.

[3] Like other workplaces accessed by the public, the courts are required to take steps to minimise the risk of the transmission of the virus.<sup>3</sup> The Chief High Court Judge has issued a new Protocol explaining the changes to how the courts are operating under COVID-19 alert level 2 to protect the health of all those attending court.<sup>4</sup>

[4] Court hearings conducted under level 2 are to be held in courtrooms that enable physical distancing of at least one metre. Judges have also been asked to limit the number of support persons and victims attending in person. Members of the public require the permission of the Court to attend hearings at alert level 2.

### **Implications for the sentencing**

[5] In order to safely manage the numbers expected to attend, a system of registration has been put in place for victims and their families wishing to attend the sentencing hearing. Arrangements are also in place to livestream the hearing to seven overflow courtrooms and to victims who are overseas, or otherwise unable to attend in person. These arrangements remain in place, but the physical distancing requirements necessary under COVID-19 alert level 2 mean significantly fewer people will now be able to attend the hearing in person than had been hoped. As a result, it has been necessary to introduce the following changes to the management of the sentencing:

- The number of visitors to the Law Courts will be limited at any one time to approximately 230 people. This number is based on the advice this Court has received about the number of people who can be safely accommodated in the main Courtroom and the seven overflow courtrooms which have been set aside at the Law Courts for viewing the sentencing while maintaining the required physical distancing to the greatest extent practical.<sup>5</sup> Those in whānau groups are not required to be distanced from one another.

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<sup>3</sup> <http://www.legislation.govt.nz/regulation/public/2020/0187/latest/LMS389738.html#LMS389828/>.

<sup>4</sup> <https://www.courtsofnz.govt.nz/publications/announcements/covid-19/court-protocols/>.

<sup>5</sup> It had been expected that approximately 400 victims, families and support people could be accommodated at the Law Courts. Ordinarily the public gallery in the main courtroom would be able to accommodate approximately 60 people at any one time. This does not include staff etc. Courts not bound by 100 people limits.

- Access to the main Courtroom will be reserved for victims, their families and their support people. The number of victims who can be safely accommodated in this courtroom with appropriate physical distancing at any one time is 35.
- Victims who have chosen to present victim impact statements to the Court in person will still be able to do so.
- Access to the seven overflow courtrooms will also be restricted to victims and their families and support people. Special consideration will be given to those who have travelled from overseas and who have undergone quarantine requirements in order to attend the sentencing.
- Ten seats will be reserved for media in the main Courtroom. A further 27 seats will be available to media in another annexe courtroom. Approximately 12 seats will be reserved for members of the public to view the hearing from this annexe courtroom.
- The Court has requested that victims in New Zealand who may not now be able to attend because of the limits on the numbers should, wherever possible, be given access to the livestream of the sentencing which has been organised for victims who are overseas and unable to be present in person.
- Everyone entering the Law Courts will need to provide appropriate identification details to facilitate the management of numbers and contact tracing.
- Personal protective equipment (face masks and gloves) will be available to all those attending court and appropriate hygiene measures will be in place to minimise the risk of transmission.
- No one who is unwell or at higher risk of illness because of their age or because they are immune-compromised or suffer from a health condition which could place them at great risk of infection should attend court.

- The Ministry of Justice is working with the Ministry of Health to ensure all appropriate measures are taken to protect the public health of those visiting the Law Courts for the hearing.

[6] The Court is acutely conscious of the additional stress that these late changes are likely to cause those impacted by the March 15 attacks including those who have travelled long distances to be present in court for the sentencing. It has asked that all steps be taken to accommodate the needs of victims while safe guarding the health of all those who attend the Law Courts for the sentencing hearing.

[7] Victims who are registered to attend the hearing will be contacted by a Court Victim Adviser in coming days to explain what these changes will mean for them and their families.

[8] The following provides more detailed information about the conduct of the hearing and support available to those attending.

### **The hearing**

[9] The sentencing hearing is set down for 24 August 2020 to take place in Courtroom 12 at the Christchurch Law Courts. It is likely to take four days to complete. The Court will begin sitting at 10 am each day and adjourn at 5pm. Whether or not the sentencing is completed, the Court does not intend to sit on Friday 28 August 2020.<sup>6</sup>

[10] The hearing will follow the usual format for a sentencing, except for the fact that at the commencement of the hearing the Crown prosecutor will read the summary of facts.<sup>7</sup> Ordinarily, at the time an offender pleads guilty the prosecutor will provide to the court a summary of the facts of the offending. At the time the offender entered his guilty pleas, the Crown advised it had a summary of facts prepared but requested that its formal tendering and reading be delayed until victims and their families were able to be present in Court to hear its details.

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<sup>6</sup> Day of religious observance for people of Islamic faith.

<sup>7</sup> Information about the legal framework for sentencing in New Zealand can be found here [www.courtsofnz.govt.nz/r-v-tarrant/Sentencing-Information.pdf](http://www.courtsofnz.govt.nz/r-v-tarrant/Sentencing-Information.pdf).

[11] Victims who wish to present their victim impact statement in person will be invited to do so. Victim impact statements inform the court of the effect of the offending on the victims.<sup>8</sup> Presently 66 victims have advised they wish their statement to be read in court. There is provision for statements to be pre-recorded, to be read in person, or to be read by a representative of the victim. It is anticipated this will be a lengthy process. It will likely occupy a number of days.

[12] At the completion of the reading of the victim impact statements, counsel for the Crown will be invited to make submissions. Counsel appointed to assist the Court (*amicus curiae*) will then be called upon to make submissions. The offender, who has elected to represent himself at sentencing, will then have the opportunity to present his submissions. He may choose to do so himself or have the submissions presented by standby counsel. Finally, the Court will deliver its sentencing decision and impose sentence.

#### **Arrangements for victims from overseas or unable to attend in person**

[13] In my minute of 2 July 2020, I outlined inquiries the Court had directed be made to ascertain the realistic possibility of victims and support people who were currently overseas returning to New Zealand for sentencing, given the COVID-19 border restrictions in place. While New Zealand citizens and residents may enter New Zealand as of right, people who are not New Zealand citizens or residents require approval to enter New Zealand via a “limited exceptions” process administered by Immigration New Zealand. Anyone entering New Zealand must abide by the 14-day quarantine requirement.

[14] For victims and support people who are not New Zealand citizens or residents, the Government has since extended the “limited exceptions” process to provide a pathway to enter New Zealand. The Court has been advised that a small number of victims and their families have obtained permission to enter New Zealand via this process.

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<sup>8</sup> Victims’ Rights Act 2002, s 17

[15] Victim Support has worked with victims and their families and relevant government agencies to put travel and quarantine arrangements in place. Restricted flight availability and other considerations, including visa requirements, have made it difficult for many to enter New Zealand. The Court has been informed that it has been possible for 47 people to enter the country as a result of the combined efforts of these agencies.

[16] Anyone coming to Christchurch from overseas to attend the hearing, will have completed the necessary 14-day quarantine period and associated testing regimes. The standard requirements for those people from overseas also apply, including of 14 days' managed isolation and two negative tests for COVID-19.

[17] Arrangements are being made for all of those who complete the necessary 14-day quarantine period and return negative tests for COVID-19 to travel to Christchurch to attend the sentencing.

[18] As noted in my minute of 2 July 2020, the Ministry of Justice has confirmed that appropriate technology will be put in place to allow those who are currently based overseas and unable to travel to view the sentencing hearing and participate remotely. This option will also be available on a more limited basis for victims in New Zealand whose personal circumstances make it too difficult for them to attend the sentencing in person or who are now unable to attend because of the COVID 19 restrictions on the Court's seating capacity.

[19] Access to the livestream will be monitored. The Ministry is putting in place a helpdesk facility to assist with any technical issues people encounter when using this technology.

### **General information about provisions/support**

[20] The sentencing hearing will be a difficult experience for victims and their families, whether they are attending the hearing in person or viewing the hearing remotely. Court Victim Advisers, Police Family Liaison Officers and Victim Support workers, who have been supporting the victims throughout the court process, will also provide support during the hearing. Facilities will be made available for those victims

and families attending the hearing in person, including a large breakout area, prayer rooms, and a whānau room. St John's staff will also be on site. In addition, the Ministry is working with the Canterbury District Health Board to manage any referrals to mental health services that are required throughout the hearing.

[21] Victims and their support people who are accessing the livestream at home will be encouraged to have support with them, or access to support, while they watch the hearing. They will be able to access support via the livestream helpdesk facility staff who can refer on to appropriate support agencies. Court Victim Advisors, Police Family Liaison Officers and Victim Support workers may also be contacted.

[22] Comprehensive language support will be in place for victims attending the hearing in person or watching the hearing remotely. This includes simultaneous audio translation of eight languages. Interpretation services will also be available for those victims who wish to read their victim impact statement in their own language.

### **Media access**

[23] Particular consideration has been given to facilities for the media to represent the public and report on the hearing. As has been the case for all pre-trial hearings and the plea hearing, media will be accommodated in the main courtroom. An overflow courtroom and working space have also been set aside where media will be able to view the hearing. Physical distancing requirements mean the number of media who can be accommodated in the main Courtroom has been reduced from approximately 20 to around 10. It is estimated a further 27 can be accommodated in the overflow courtroom where the 12 seats reserved for the public will also be situated.

[24] Media based overseas who have completed the necessary registration process and been approved by the Court will be able to view the hearing using remote technology. This provision will be extended where possible to media in New Zealand impacted by COVID-19 travel restrictions. Any recording or sharing of the live feed is prohibited.

[25] A minute informing the media of the Court's directions with respect to reporting of the sentencing and the conditions which will apply to film, sound recordings and still photography was issued last week.<sup>9</sup>

[26] The Court has prohibited any live reporting of the sentencing hearing. This prohibition applies to media and anyone observing the hearing, whether in the courtroom, in auxiliary courtrooms or remotely online.

Solicitors:  
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Copy to:  
Mr Tarrant

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<sup>9</sup> [www.courtsofnz.govt.nz/r-v-tarrant/R-v-Tarrant-20200806.pdf](http://www.courtsofnz.govt.nz/r-v-tarrant/R-v-Tarrant-20200806.pdf)