

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

**I TE KŌTI MATUA O AOTEAROA  
TE ROTORUA-NUI-A-KAHUMATAMOMOE ROHE**

**CRI 2018-070-3998  
[2019] NZHC 2543**

**THE QUEEN**

v

**WILLIAM CHURCH**

Hearing: 7 October 2019

Appearances: R W Jenson for the Crown  
R M Adams for Mr Church

Judgment: 7 October 2019

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**ORAL JUDGMENT OF JAGOSE J**

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Solicitors/Counsel:  
Pollett Legal Limited, Tauranga  
Adams Hesketh, Tauranga

[1] My judgment of 12 July 2019 recorded, in terms of s 8A of the Criminal Procedure (Mentally Impaired Persons) Act 2003, Mr Church was unfit to stand trial on a charge of murdering Michael Steven Church on 22 September 2018 at Papamoa.<sup>1</sup>

[2] Under ss 8A(5) and 10, I now must inquire into Mr Church's involvement in the offence. The latter section requires me to decide if I am satisfied, on the balance of probabilities, the evidence against Mr Church is sufficient to establish he caused Michael Steven Church's death, such being the act forming the basis of the offence with which Mr Church is charged.<sup>2</sup> For those purposes, I may consider any formal statements filed under s 85 of the Criminal Procedure Act 2011, any oral evidence taken in accordance with an order under s 92 of that Act, and any other evidence submitted by the prosecutor or by Mr Church.<sup>3</sup>

[3] The Crown filed 29 formal statements, each of which I have read, and additional transcript and photographic evidence. The statements include evidence from:

- (a) Kilak Kesha, a forensic pathologist working at Auckland City Hospital, who made a post mortem examination of the body of a man identified as Wayne Michael Church. Dr Kesha found four stab wounds on the body: two to the head, and one each to the neck and back. All significantly penetrated the body, and gave rise to associated haemorrhages. Dr Kesha's expert opinion was "death was caused by multiple stab wounds";
- (b) the deceased's 8-year-old granddaughter, who saw William "chopping a big orange on the outside and Koro was doing the dishes and ... he, William sneaked up to him and stabbed him in the throat. ... And then he died". The girl originally said she was told that by her grandfather, who she named as "Wayne", when she came out of her room to find him lying bleeding on the kitchen floor with a knife in his throat, but also explained she had been told not to talk about what had happened;

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<sup>1</sup> *R v Church* [2019] NZHC 1642 at [10].

<sup>2</sup> Criminal Procedure (Mentally Impaired Persons) Act 2003, s 10(2).

<sup>3</sup> Section 10(3).

(c) the deceased's 5-year-old son, who saw William 'chop' his father "with a little, sharp knife ... it was chopping an orange and him just killed my Dad"; and

(d) the arresting officer, who Mr Church asked "Did you find the knife?".

[4] I am satisfied from the whole of that material, on the balance of probabilities, the evidence against Mr Church is sufficient to establish he caused Michael Steven Church's death. The transcripts of 111 calls and DVD interview contain myriad admissions by Mr Church to that end.

[5] My judgment of 12 July 2019 also ordered inquiries be made to determine the most suitable method of dealing with Mr Church under ss 24 or 25 of the 2003 Act.<sup>4</sup>

[6] Under s 24, with sufficient information on Mr Church's condition, I must consider all the circumstances of the case, and all the evidence of health assessors as to the necessity of Mr Church's detention, to decide if such detention is necessary "in the interests of the public or any person or class of persons who may be affected by [my] decision". The options are detention in a hospital as a special patient, or in a secure facility as a special care recipient. Otherwise, under s 25, I may order Mr Church's treatment or care, or immediate release.

[7] I have updated reports from the three health assessors who earlier gave evidence in support of their documented assessments Mr Church suffers treatment-resistant schizophrenia. They also gave evidence then, in their assessment, he could not effectively participate in any trial, and would in any event be constrained in such participation by intellectual disability.<sup>5</sup>

[8] All three consider Mr Church should continue to be detained in a hospital as a special patient. Dr Dean considers, by reason of Mr Church's continuing (although improved) psychiatric illness and lack of insight into his condition and its consequences, he "continues to pose a serious risk to the safety of the public".

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<sup>4</sup> *R v Church*, above n 1, at [12].

<sup>5</sup> At [2] and n 2.

Dr Chaplow, who reassessed Mr Church on 29 September 2019, says his opinion “has not altered”. And Dr Barry-Walsh “concur[s] with their views”, adding:

[Mr Church] has a serious psychotic illness, complicated by fluctuating compliance and substance abuse with evidence of cognitive limitations. He has committed a homicide. It is my view that it is in his interests and in the interests of the public that he should be a special patient .... This is the only option that provides the necessary surety, oversight, checks and balances to ensure that he receives rehabilitation and that his risks are appropriately managed.

Those views are adopted by counsel, who urge I make such an order.

[9] In all the circumstances of the case, which are of the severely psychiatrically unwell Mr Church’s fatal attack on his father at home in the presence of younger relatives, and considering the health assessors’ updated views, I am satisfied such an order is necessary in the interests of the public. Those interests are both in being protected from Mr Church, and (also in Mr Church’s interest) in his longer-term management and treatment in a manner best calculated to achieve his rehabilitation and reintegration into the community.<sup>6</sup> Mr Church, suffering treatment-resistant schizophrenia and intellectual disability, presents both immediate and longer-term risks to himself and others, which require comprehensive management and treatment. Order for his detention in a hospital as a special patient promotes the best prospect for Mr Church’s ultimate accountability for his father’s death,<sup>7</sup> while providing for an additional layer of oversight of decisions affecting his status, leave and eventual release.<sup>8</sup> Those decisions should not be left to the clinicians treating him.

[10] I therefore order Mr Church be detained in a hospital as a special patient under the Mental Health (Compulsory Assessment and Treatment) Act 1992.

—Jagose J

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<sup>6</sup> *M (CA819/11) v R* [2012] NZCA 142, (2012) 28 FRNZ 773 at [7]–[8].

<sup>7</sup> *R v Kingi* [2017] NZHC 2938 at [20].

<sup>8</sup> *M (CA819/11) v R*, above n 6, at [35].