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**IN THE DISTRICT COURT  
AT WHANGAREI**

**I TE KŌTI-Ā-ROHE  
KI WHANGĀREI-TERENGA-PARĀOA**

**FAM-2021-088-000128  
[2021] NZFC 3072**

IN THE MATTER OF	SUBSTANCE ADDICTION (COMPULSORY ASSESSMENT AND TREATMENT) ACT 2017
BETWEEN	NORTHLAND DISTRICT HEALTH BOARD Applicant
AND	[JB] Person In Respect of Whom the Application Is Made

Hearing: 1 April 2021  
(Heard at Tumanako Room, Whangarei Hospital, Whangarei)

Appearances: C Perry – for the Patient  
Dr C Wiese – Responsible Clinician  
M Venter – Second Health Professional (via VMR)  
J Young – District Inspector

Judgment: 1 April 2021

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**ORAL JUDGMENT OF JUDGE H ELLIS**

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[1] This is an application under the Substance Addiction (Compulsory Assessment and Treatment) Act 2017 for a compulsory treatment order for [JB].

[2] [JB] is attending her hearing today from [a town in the Northland region] via VMR together with Marilize Venter. I am in Whangarei with [JB]'s lawyer, Mr Perry,

together with the responsible clinician, Dr Wiese, and with Ms Young who is the District Inspector.

[3] I have interviewed [JB] as I must under the Act. I have identified myself, explained the purpose of our interview, discussed with her her situation, the proposed course of treatment and her views on those matters. I must do that under s 75(4) of the Act. I have then spoken to Mr Perry and with Dr Wiese, as the responsible clinician, with Marilize Venter and, lastly, with Ms Young.

[4] Mr Perry has had the opportunity to ask questions of Dr Wiese and Marilize and [JB] has had the opportunity to say what other matters she wishes me to consider.

[5] I should say at the outset that [JB] has told me that she is happy for an order to be made.

[6] What I must decide is whether or not [JB] meets the criteria for compulsory treatment under the Act and then having regard to all of the circumstances, whether or not a compulsory treatment order should be made.

[7] Section 7 of the Act sets out the four reasons why a person may need compulsory treatment. Mr Perry has been through each of these grounds carefully and they are referred to, in some depth, in the report on file. In order to make an order, I must be satisfied that all four criteria apply to [JB].

[8] The first matter is whether or not [JB] has a severe substance addiction. What this means is set out in s 8 of the Act.

[9] I am satisfied, based on the reports, that [JB] meets the criteria for an alcohol use disorder. [JB] has, in response to a question from me, described herself as an alcoholic. She accepts that this is a continuous situation and she has experienced cravings and had unsuccessful efforts to control the use of her substance and use, despite suffering harmful consequences. [JB] undertook rehabilitation four times last year in 2020, however, relapsed fairly shortly thereafter. I am told there have also been

two further efforts to engage [JB] with residential rehabilitation, but [JB] has declined these offers at the last minute.

[10] [JB] craves alcohol and the information before me is that on some occasions this means that her drinking starts early in the day and that there is a significant amount of alcohol that is consumed.

[11] I must be satisfied that her addiction is of such severity that it poses a serious danger to [JB]'s health or safety and seriously diminishes her ability to care for herself. This is set out in s 8(1)(b).

[12] I am satisfied this is the case. [JB] has had numerous falls which are dangerous in themselves. She has cracked her head open, I am told, and broken her femur requiring a hip operation. The risks are increased, however, because [JB] tells me that she has been diagnosed with osteoporosis and so it is particularly important that she not be subject to falls again in the future.

[13] There is also reference in the reports to [JB] having alcohol related seizures. Mr Perry tells me [JB] can only recall having two such seizures although she also does talk about having some shaking.

[14] There has also been one occasion in June last year when [JB]'s [child] had to call an ambulance as [JB] was unresponsive.

[15] Lastly, in terms of serious danger, I am told that recent liver enzyme testing has indicated that [JB] has five times the liver enzyme levels for a normal functioning liver and this indicates a recent increase in her alcohol use.

[16] In terms of [JB]'s ability to care for herself, I am told [JB] does not eat well when she is drinking and has lost a significant amount of weight. There is also a risk that were [JB] to have a cooking fire when she has been drinking, then this would pose a significant risk for herself.

[17] I am, therefore, satisfied that [JB] has a severe substance addiction.

[18] The second matter I must be satisfied of is whether or not [JB]'s capacity to make informed decisions about a treatment for that addiction is severely impaired. This is set out in s 9 of the Act.

[19] A certificate has been signed confirming that, in the clinician's opinion, [JB] is unable to understand the information relevant to the decision, retain that information and use or weigh that information but that she is able to communicate that decision to others.

[20] We have had some discussions about that today and I am grateful to Ms Young for her having a separate conversation with Dr Wiese about this also.

[21] I am satisfied, based on the information before me, that [JB]'s capacity to make decisions over time is severely impaired. While [JB] presents well and has agreed to treatment in the past, the issue with capacity is whether or not that can be sustained over time. A prime example of this is [JB]'s agreement to attending rehabilitation last year only to have had a change of heart when that became an immediate possibility.

[22] The third matter I must be satisfied about is that compulsory treatment is necessary. I consider the compulsory treatment *is* necessary because voluntary treatment is unlikely to be effective in addressing the severe substance addiction.

[23] [JB] has had longstanding challenges with alcohol use dating back to when she was a teenager, completed detox four times in 2020, relapsed soon after that and has had a decline over time. There are risks to her physical health and cognitive functioning over time if this were not to be addressed.

[24] The report before me says there has been a decline in [JB]'s mental and physical health which, in itself, is concerning. However, although [JB] agrees to this order being made and has agreed to treatment in the past, there is no certainty that she would agree and follow through with those plans when they are ready to be put into place.

[25] Accordingly, I am satisfied that compulsory treatment is necessary.

[26] The last matter I must be satisfied about is that appropriate treatment is available. The plan put before me is for [JB] to remain at the current [Northland town] Treatment Centre and then to transfer to Nova in approximately two weeks' time.

[27] The centre is in Christchurch which although a long way from Whangarei or [the Northland town], is nevertheless in the same city in which her [close family member] resides. There have already been discussions about [JB] being able to receive visits from her [close family member] and this would be a good thing. I am told the family support the plan.

[28] Having been satisfied of those matters, I now must have regard to all of the circumstances and decide whether a compulsory treatment order should be made. An application and an order is very much a last resort. I must take into account the principles under s 12. It is important that these orders are only made when there is no other possibility of treatment available and the risks, if there is no treatment, are high. I am satisfied as to both.

[29] There is a lengthy history of alcohol dependency and previous attempts to address the issue, although well meaning, have not sustained change over time. The risk are high were treatment not to be made available and undertaken. [JB]'s commitment to treatment has varied over time.

[30] Lastly, the application is supported by [JB] and the family.

[31] Having been satisfied of the above matters, I therefore make a compulsory treatment order under the Act. This will be for a period of 56 days from the date after the certificate was issued.

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Judge HJ Ellis  
Family Court Judge

Date of authentication: 12/04/2021  
In an electronic form, authenticated electronically.