

EDITORIAL NOTE: CHANGES MADE TO THIS JUDGMENT APPEAR IN  
[SQUARE BRACKETS]

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**IN THE FAMILY COURT  
AT NELSON**

**I TE KŌTI WHĀNAU  
KI WHAKATŪ**

**FAM-2021-006-000113  
JUDGE VIA AVL  
[2022] NZFC 4114**

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| IN THE MATTER OF | THE SUBSTANCE ADDICTION<br>(COMPULSORY ASSESSMENT AND<br>TREATMENT) ACT 2017 |
| BETWEEN          | NELSON MARLBOROUGH DISTRICT<br>HEALTH BOARD<br>Applicant                     |
| AND              | [DONALD MOREY]<br>Person In Respect Of Whom the Application<br>Is Made       |

Hearing: 4 May 2022

Appearances: C Lane for the Applicant  
M Dollimore for the Patient  
Dr C McCullough as Responsible Medical Specialist (via  
telephone)  
R T Somerville as District Inspector (via AVL)

Judgment: 4 May 2022

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**ORAL JUDGMENT OF JUDGE G P BARKLE**

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[1] This is an application for a compulsory treatment order in relation to [Donald Morey] under the Substance Addition (Compulsory Assessment and Treatment) Act 2017.

[2] In terms of those attending the hearing today, [Donald] is at the mental health unit here in Nelson, having arrived from [location A] yesterday. He attends by AVL link with the specialist addiction clinician Ms Carla Lane. Also from the unit, but by telephone is Dr Dougal McCullough, who is the approved specialist under the Act. [Donald] is represented by Mr Dollimore. He is in court here this morning. Also present by AVL link is Mr Somerville, the District Inspector.

[3] Ms Lane has made the application, dated 29 April 2022, for the order concerning [Donald]. There is a full report available from her as well as from Dr McCullough who carried out his assessment under the Act on 29 April 2022.

[4] As Dr McCullough noted, prior assessments have been carried out by Dr Lee Nixon. Dr McCullough confirmed the assessments that have been made by his predecessor were consistent with his opinion and conclusions.

[5] [Donald] tested positive yesterday for COVID on arrival at the mental health unit. That meant that Mr Dollimore was unable to meet with him in person. However, he was able to have fruitful telephone discussions with [Donald]. During the calls Mr Dollimore advised he outlined the process that had been undertaken to [Donald] and what was proposed in terms of his client's treatment. The reports of Ms Lane and Dr McCullough, together with the proposed treatment plan, were discussed with [Donald] by Mr Dollimore. Ms Lane confirmed that copies of those documents have been provided to [Donald].

[6] Mr Dollimore was comfortable that [Donald] understood what was involved in the application and proposals from the clinicians. He was confident [Donald] was able to give informed instructions. Those instructions are that [Donald] agrees with and consents to the application.

[7] In terms of s 75 of the Act, I have complied with the requirements of subs (4) in terms of identifying myself to [Donald] and then explaining the purpose of the hearing today. [Donald] is quite clear that he understands that he will be heading to Christchurch, a city that he referred to as remaining in the 1950s. He also is understanding that he will be at [treatment facility 1] facility where no laptop or PC are available to him. He is also aware that the period of the treatment order initially is one of 56 days with that period having commenced from the date of the application, being 29 April.

[8] As well as carrying out the interview of [Donald], I have spoken with Dr McCullough and Ms Lane, as well as reading their reports prior to coming into court this morning.

[9] When determining the application, I am cognisant of the purposes of the Act which are to enable a person to receive compulsory treatment if they have a severe substance addiction and the capacity to make decisions about their treatment for such addiction is severely impaired.

[10] The treatment proposed is intended to protect [Donald] from harm, stabilise his health, protect and enhance his mana and dignity and restore his capacity, as well as facilitate planning for continued treatment and care.

[11] The whole purpose of the Act, as I understand, is for the initial period of compulsory treatment to be part of a comprehensive pathway for [Donald], so that once the acute and critical situation of his addiction is dealt with, he is not simply abandoned but remains assisted once he is returned into the community.

[12] I am required to ensure that s 7 of the Act, in terms of the criteria for compulsory treatment, are satisfied by the evidence before the Court. Those criteria include the following:

- (a) The person has a severe substance addiction.

- (b) The person's capacity to make informed decisions about treatment for that addiction is severely impaired.
- (c) Compulsory treatment of the person is necessary.
- (d) Appropriate treatment for the person is available.

[13] A severe substance addiction is then defined in s 8(1) of the Act. Subsection 8(2) also has relevance in terms of s 8(1)(a) being satisfied.

[14] The other section of the Act which I cannot overlook is s 9 which deals with the capacity of [Donald] to make informed decisions and whether that capacity is severely impaired.

[15] In terms of the consideration of those matters, that is informed by the reports from Dr McCullough and Ms Lane. Dr McCullough, in his report, notes that currently [Donald] is drinking at least three litres of wine per day and has only had very infrequent periods of time without such consistent alcohol consumption over the past 12 months.

[16] In his discussions with [Donald], he acknowledged his alcohol use was problematic and that impacted on a number of his life situations but particularly an inability to be employed. [Donald] advised Dr McCullough he had not been employed for the last 10 years.

[17] Dr McCullough described [Donald]'s very poor physical situation and how accommodation difficulties have arisen because of [Donald]'s extreme neglect of his living environment.

[18] There is also reference in Dr McCullough's report to [Donald]'s cognitive assessments which are consistent with significant frontal lobe damage. The impression of the doctor was that [Donald] had a severe alcohol use disorder with evidence of neuro adaptation and prominent symptoms of salience, dyscontrol and continuing use of alcohol despite significant negative consequences, including being banned from healthcare services and facing criminal charges.

[19] [Donald]'s alcohol addiction, in Dr McCullough's view, impaired his capacity to make rational treatment decisions and his pattern of behaviour over some period of time indicated an unlikelihood to make any progress without compulsory treatment.

[20] Ms Lane has had a significant and lengthy period of involvement with [Donald]. Her report talks of [Donald] first coming to the notice of [location A] Addiction and Mental Health Services in October 2020. He usually was intoxicated and often abusive of staff and services. There are a number of acute situations referred to by Ms Lane since that time which has often required police involvement. Relevantly [Donald] has not been able to follow through with any proposed treatment or assistance from service organisations.

[21] He has also, since February 2021, presented with statements of suicidality and requiring contact with mental health services whom he was not prepared to engage with.

[22] Ms Lane's view is that when she looked at the information that was available to her, and also her own interactions with [Donald], was that he has frontal lobe deficits and personality traits that mean that any intervention and assistance offered is not utilised by [Donald] and has not been undertaken by him up to now.

[23] Ms Lane's report goes on to detail, [Donald]'s alcohol dependence being in place for a lengthy number of years and of significant amounts of substances being consumed. She then refers to [Donald] presenting with poor self-care, and that his home environment is of a very poor standard. Ambulance staff in February this year advised they would not enter his home unless it was a life-threatening situation due to the unsanitary, malodorous and unsafe conditions within the property. There is also reference to [Donald]'s mental health issues in Ms Lane's report.

[24] I have available the plan for treatment of [Donald] prepared by Ms Lane and Dr McCullough. This will see [Donald] transported to Christchurch to receive treatment at [treatment facility 1]. As I have referred to earlier, [Donald] tested positive for COVID yesterday, so the expectation is that he will go to Christchurch by road next Wednesday, 11 May. Ms Lane has been in touch with the responsible

persons at [treatment facility 1] and they have confirmed to her that they will be holding the bed for him for his compulsory treatment.

[25] Having already referred to the relevant sections of the Act and the evidence I have in front of me from Ms Lane and Dr McCullough, I am satisfied that the criteria required to be met in terms of s 7 are satisfied. I am also comfortable that there is appropriate treatment for [Donald] available and that has been detailed in the treatment plan for him.

[26] Therefore, I grant the application that has been made with respect to [Donald] and make a compulsory treatment order under the Act.

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Judge GP Barkle

Family Court Judge | Kaiwhakawā o te Kōti Whānau

Date of authentication | Rā motuhēhēnga: 23/05/2022