

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

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**IN THE DISTRICT COURT
AT ROTORUA**

**I TE KŌTI-Ā-ROHE
KI TE ROTORUA-NUI-A-KAHUMATAMOMOE**

**FAM-2023-063-000218
[2023] NZFC 8172**

IN THE MATTER OF	THE SUBSTANCE ADDICTION (COMPULSORY ASSESSMENT AND TREATMENT) ACT 2017
BETWEEN	TE WHATU ORA—HEALTH NEW ZEALAND Applicant
AND	[HELEN DUNCAN] Person In Respect of Whom the Application Is Made

Hearing: 25 July 2023
(Heard at Rotorua Hospital)

Appearances: B Pereeti – for the Patient
Dr D Greene – Responsible Clinician
G Wallace – Second Health Professional

Judgment: 25 July 2023

ORAL JUDGMENT OF JUDGE A C WILLS

[1] This is an application for a compulsory order pursuant to the Substance Addiction (Compulsory Assessment and Treatment Act) 2017. Ms [Helen Duncan] is the subject of this application which has come about as a result of her parents' concerns for her. She has engaged with Dr Greene who is the expert psychiatrist in this area and has been in hospital now for about a week.

[2] I intend to make this order today. Mr Gavin Wallace, registered nurse, is the person working in this field and will take primary responsibility. He will be travelling with [Ms Duncan] to Christchurch to the residential rehabilitation facility there.

[3] Although I have identified that the order is to be made, it is important that I record the criteria that has been met. Before I do that, I should say that [Ms Duncan] very much wants to attend Nova and consents to the making of this order today. She wants to do that both for herself and for her [child] who lives with her parents [overseas]. She has had many attempts at rehabilitation but has been using methamphetamine for 10 years and has been unable to maintain sobriety for more than about two weeks.

[4] The first criteria that must be met before a compulsory treatment order can be made is that the person has a severe substance addiction. Dr Greene has filed a report and I am satisfied, having heard from her, that [Ms Duncan] does have a severe substance addiction. She, as I say, has been using methamphetamine for 10 years. It is having a significant effect on her health - both her mental health and her physical health. As a result of that addiction, she has been involved with the police, she has been in police cells, she has been hospitalised, she has been homeless, and she has associated with people who abuse her and have been violent to her.

[5] Her behaviour after she has used methamphetamine can trigger others to that violence. Accordingly, her health and her wellbeing are all at risk as a result of her addiction.

[6] I am satisfied that criteria is met.

[7] I am also required to consider whether [Ms Duncan] has severely impaired capacity. That is demonstrated by the fact that she has, despite many attempts over the last 10 years, been unable to make a decision that she should abstain from using methamphetamine. While she has global capacity generally when well, she cannot make that decision and therefore her capacity is severely impaired.

[8] The next item is that compulsory treatment is necessary. The last attempt at rehabilitation was a voluntary one and [Ms Duncan] attended the residential rehabilitation facility [details deleted]. She was able to sustain residence there for two weeks but her compulsion to use drove her to leave at the end of that time. The attempts to undertake voluntary treatment have been unsuccessful and it is acknowledged by [Ms Duncan] and recognised by her medical team that compulsory treatment is required.

[9] The last criteria is that appropriate treatment must be available. Although beds in compulsory rehabilitation facilities are rarely available, [Ms Duncan] has secured a bed and it is going to be available at some time in the near future, and it is hoped that will be tomorrow.

[10] I am required to identify the specific plan for travel and the date of travel which I cannot do today but I have asked the medical team to advise by email of the date of travel and I am happy to address that in chambers.

[11] The residential facility that is accepting of [Ms Duncan] is Nova in Christchurch and travel will be by air to Christchurch. [Ms Duncan] will be accompanied by Mr Gavin Wallace.

[12] The compulsory order lasts for a period of 56 days. That order begins on the date that the first certificate was signed by Dr Greene and that is 12 June 2023.

[13] An order is made that [Helen Duncan] is subject to a compulsory treatment order pursuant to the Act for a period of 56 days from 12 June 2023. That period may be extended on application, for a further period of 56 days.

[14] I am also advised that [Ms Duncan] may be able to engage in the voluntary programme at Nova once the compulsory period has ended and that is something that is worth thinking about when there are supports that are available that can really assist in that rehabilitation process.

[15] [Ms Duncan] has a longer-term goal of travelling [overseas] where her parents are to ensure that she can have a relationship with her [child]. That is something that is really worth fighting for.

Judge AC Wills

Family Court Judge | Kaiwhakawā o te Kōti Whānau

Date of authentication | Rā motuhēhēnga: 08/08/2023