

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

**I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKĀURAU ROHE**

**CRI-2022-004-4779
[2023] NZHC 2142**

THE KING

v

**MATAMUA LEATI'OO
Defendant**

Hearing: 9 August 2023

Appearances: AM McClintock for the Crown
MJ Dyhrberg KC for the Defendant

Judgment: 9 August 2023

Reasons: 10 August 2023

JUDGMENT OF FITZGERALD J

This judgment was delivered by me on 10 August 2023 at 3.30pm

Registrar/Deputy Registrar

Date.....

Solicitors: Meredith Connell, Auckland

To: M Dyhrberg KC, Auckland

Introduction

[1] It is accepted that on Saturday 4 June 2022, Mr Matamua Leati'oo stabbed the deceased, Ms Brown (his mother) multiple times with a knife causing her death. The issue that the Court heard yesterday morning was whether a defence of insanity is available to Mr Leati'oo in relation to the charge of murder. Based on the expert evidence before the Court, I was satisfied for the purposes of s 20(2)(c) of Criminal Procedure (Mentally Impaired Persons) Act 2003 (the Act) that Mr Leati'oo was insane within the meaning of s 23 of the Crimes Act 1961 at the time he caused his mother's death. I made a finding to that effect in court yesterday.

[2] This judgment sets out my reasons for reaching the conclusion I did.

Factual background and Mr Leati'oo's mental health history

[3] The various reports before the Court, and in particular the report of Dr Russell Wyness and the report of Dr Krishna Pillai, make it clear that Mr Leati'oo has suffered from mental health issues from at least 2009, though these have clearly become more serious in more recent times.

[4] Mr Leati'oo first had contact with mental health services in 2009 when he reported hearing voices. No treatment resulted from that engagement.

[5] In 2015, Mr Leati'oo was charged with assaulting a family member. He reported doing so because he believed she had poisoned his food. This led to further engagement with mental health services. No other psychotic symptoms were detected at that time and Mr Leati'oo again did not have any mental health follow-up from the incident. An assessment by a forensic psychiatrist in relation to that event concluded that there was no evidence of a major mental illness at that time.

[6] I pause to interpolate that Mr Leati'oo's belief of being poisoned is a recurrent theme in his various presentations to mental health services over the following years.

[7] In 2018, Mr Leati'oo was assessed in the context of a Court ordered report. Mr Leati'oo reported being harrassed over the years by several Samoan individuals which he declined to identify, and again reported beliefs that he was being poisoned. The mental health professionals assessing Mr Leati'oo at the time considered these beliefs to be delusions and he was diagnosed with a psychotic mental health problem. He was referred to the "Intake and Assessment Team" in South Auckland and he was provided acute pyschiatric treatment. Mr Leati'oo was prescribed antipsychotic medication and was followed up on an out-patient basis.

[8] In a further Court ordered assessment on 25 November 2020, Mr Leati'oo was assessed as having active symptoms of psychosis and further assessment was ordered. The health professional assessing him at the time concluded that Mr Leati'oo had a "strong nexus between his untreated psychosis and recent violent offending". The health assessor noted Mr Leati'oo's belief that his mother had been killed by the Mongrel Mob.

[9] At this time, Mr Leati'oo was formally diagnosed with schizophrenia, complicated by substance abuse. As a result, Mr Leati'oo was admitted to the Tiaho Mai in-patient unit at Middlemore Hospital under the Mental Health (Compulsory Assessment and Treatment) Act 1992 (the Mental Health Act), where he remained for approximately one month before being discharged with prescribed monthly antipsychotic treatment.

[10] In early to mid-2021, Mr Leati'oo moved from South Auckland to Auckland, leading to a transfer of care to Auckland based mental health services at Cornwall House. Mr Leati'oo remained subject to compulsory treatment under the Mental Health Act at that time, though the compulsory nature of the treatment ceased in October 2021. At that point, he refused his antipsychotic medication injection due to his belief that it was causing unusual side effects (fainting). He subsequently rejected all mental health follow-up from November 2021, and by March 2022 he was discharged from the community mental health team as they had not seen him for six months.

[11] Mr Leati'oo's ongoing mental illness and psychosis is also consistent with reports of his stay at Scotty's boarding house in Onehunga — from which he was evicted in late 2021 or early 2022. When Mr Leati'oo first moved in to the boarding house, he was still receiving compulsory mental health treatment, and the occupants are reported as describing him as being normal and easy to get along with. As noted, however, from late 2021, Mr Leati'oo ceased taking his antipsychotic medication. This led to threatening behaviour by him to other residents on the basis that he believed they were poisoning his food and drink, and that someone was pumping gas into his room which made him feel tired and unwell. Following his eviction from the boarding house, Mr Leati'oo was homeless and lived on the streets. A particularly sad aspect of this case is that his mother was the only member of his immediate family who still supported him at this time. He would visit her house on a reasonably regular basis and provided with food and a place to sleep.

[12] Emergency and mental health services were contacted on 30 May 2022 when members of the public reported to police that a suspicious male who potentially had a knife was in the Fergusson Domain. In this incident, an agitated Mr Leati'oo had followed a member of the public, who then entered a nearby gym for help. The manager of the gym went outside and confronted Mr Leati'oo. Mr Leati'oo was reported as having said “okay boys go get em”, despite there being nobody else around. Dr Pillai reports that Mr Leati'oo appeared to be responding to hallucinations at that time. When Mr Leati'oo was apprehended by police that day, he initially stated that he wanted to kill himself, and the police officers expressed concern as to his “vacant” state when discussing matters with him. They contacted mental health services as a result. It seems that Mr Leati'oo may have been seen by mental health service at the Auckland Custody Unit at that time, but Dr Pillai records that Mr Leati'oo was later found to be “settled” and was left to attend court. For reasons that are unknown to this Court, no further mental health follow-up was arranged at that time.

[13] A few days later, on the day that he killed his mother, Mr Leati'oo was seen by a member of the public in Queen Street setting small fires. This led to his admission to the Te Whetu Tawera unit at Auckland City Hospital and later the Mason Clinic. He was subsequently charged with the murder of his mother. Upon his arrest by police,

Mr Leati'oo repeatedly stated that he was working for the Prime Minister who he suggested was also the mother of his children.

Dr Pillai and Mr Wyness' opinions

[14] Both Dr Pillai and Dr Wyness, experienced clinical psychiatrists, are of the view that at the time he killed his mother, Mr Leati'oo suffered from a disease of the mind for the purposes of s 23 of the Crimes Act, being psychosis caused by schizophrenia. Both experts refer to Mr Leati'oo's interactions with mental health services in the years leading up to the offending, and the clear evidence of delusionary and persecutory beliefs on his part over that time. It is clear from the materials before the Court that these delusions have a theme of Mr Leati'oo being poisoned or gassed, and that the Government and the public were being infiltrated by members of the Mongrel Mob and the Mormon Church. Both experts also refer to Mr Leati'oo's belief that his mother, at whose house he had stayed overnight on the evening of 3 June 2022, had been "replaced". Both experts refer to Mr Leati'oo's advice that upon waking on 4 June 2022, he had the immediate thought that something was wrong and he needed to act to protect himself or he would be killed. Dr Wyness records this as a direction to Mr Leati'oo that he needed to kill his mother or he would himself be killed. Both experts report that Mr Leati'oo did not believe he was killing his mother, but somebody who had replaced his mother.

[15] Both Dr Pillai and Dr Wyness address Mr Leati'oo's drug consumption over the years and at around the time of the offending, and in particular that he was a regular and heavy user of cannabis. Mr Leati'oo had smoked cannabis the night before his offending, but not that morning. Both express their expert opinion that the psychosis which they consider Mr Leati'oo was experiencing at the time he stabbed his mother was not caused by substance abuse but by his underlying mental illness. For example, Dr Wyness notes that if the psychosis had been caused by substance abuse, the psychosis would have resolved within a matter of days of being admitted to mental health services. Instead it took some months and treatment with antipsychotic medication for Mr Leati'oo's symptoms to subside.

[16] On the basis of their examination of Mr Leati'oo's mental health history, his account of the actual offending and his presentation in the months following the offending, both Dr Pillai and Dr Wyness consider that while Mr Leati'oo understood the nature and quality of his actions — in that he was killing a person — his delusionary beliefs rendered him incapable of understanding the moral wrongfulness of his actions. In short, due to the hallucinations he was suffering at the time, Mr Leati'oo believed he needed to kill the person who was in fact his mother before that person killed him.

Assessment

[17] Section 23 of the Crimes Act provides as follows:

23 Insanity

- (1) Every one shall be presumed to be sane at the time of doing or omitting any act until the contrary is proved.
- (2) No person shall be convicted of an offence by reason of an act done or omitted by him or her when labouring under natural imbecility or disease of the mind to such an extent as to render him or her incapable—
 - (a) of understanding the nature and quality of the act or omission; or
 - (b) of knowing that the act or omission was morally wrong, having regard to the commonly accepted standards of right and wrong.
- (3) Insanity before or after the time when he or she did or omitted the act, and insane delusions, though only partial, may be evidence that the offender was, at the time when he or she did or omitted the act, in such a condition of mind as to render him or her irresponsible for the act or omission.
- (4) The fact that by virtue of this section any person has not been or is not liable to be convicted of an offence shall not affect the question whether any other person who is alleged to be a party to that offence is guilty of that offence.

[18] Taking into account the expert advice to the Court, and also evidence of Mr Leati'oo's mental health both before and after the time when he killed his mother,¹ there is no doubt that Mr Leati'oo was suffering from a disease of the mind on 4 June 2022, namely schizophrenia. That formal diagnosis had been made some time earlier

¹ Crimes Act 1961, s 23(3).

and it is clear from the materials that Mr Leati'oo was continuing to suffer the symptoms of that disease at the time when he stabbed his mother.

[19] I am also satisfied on the basis of the expert evidence that when he stabbed his mother, Mr Leati'oo understood the nature and quality of his actions, namely that he was killing a person who he did not believe was his mother. Further, on the basis of the detailed and helpful reports from each of Dr Pillai and Dr Wyness, I am also satisfied that it is more likely than not that Mr Leati'oo did not know that the act in question, namely stabbing his mother, was morally wrong, having regard to the commonly accepted standards of right and wrong. As noted earlier, the consistent position has been that Mr Leati'oo thought his mother had been replaced, and on the morning of 4 June 2022 he was directed to kill her before she killed him. Neither Dr Wyness nor Dr Pillai raise any suggestion that Mr Leati'oo was or might have been malingering in relation to his mental health state on 4 June 2022.

[20] I have taken into account Mr Leati'oo's actions in attempting to set fire to his mother's house immediately after he had stabbed her. At first blush, this could support the proposition that he knew his actions were morally wrong and he was seeking to cover them up. However, he immediately proceeded to Queen Street where he began starting small fires, including of a lavalava he was using to wrap around a cut he had suffered in the stabbing. In this way, he was carrying out what are clearly illogical acts and which would only draw attention to himself. I do not consider these actions themselves suggest that Mr Leati'oo knew his actions in stabbing his mother were morally wrong. Further, the evidence of Mr Leati'oo's presentation in the days and months following his arrest and his detention at the Mason Clinic are clear that he continued to suffer from delusion and hallucinations, including a settled belief at that time that Jacinda Ardern was his wife and the mother of his children, and that Mr Leati'oo was the mother of her child.

[21] Accordingly, I was satisfied that both psychiatrists were correct in their views as to the availability of an insanity defence to Mr Leati'oo. I note the Crown has also concluded that the only reasonable outcome in this case is a finding that the act is proven but Mr Leati'oo is not criminally responsible on the basis of insanity.

Conclusion

[22] These are the reasons for the finding I made in Court yesterday morning.

Fitzgerald J