

Oliver Kulinski was tried before a jury for one count of an unlawful act intended to cause bodily harm. He was found not guilty by reason of insanity. On 29 January 2017, when the defendant was aged 20, he attacked his father with a small axe in their family home in Launceston. The defendant comes from a stable and supportive background. His father is a medical practitioner. He and the defendant's mother are loving parents. The defendant himself was a previously healthy undergraduate student studying medical research at the University of Tasmania in Hobart. At trial it was the common position of the State and the defence that at the time of the attack the defendant was suffering from a mental disease to such an extent as to render him incapable of knowing that his acts were ones he ought not do. There was evidence from two consultant forensic psychiatrists. The first, Dr Hadrian Ball, was until December 2017, staff specialist in forensic psychiatry at the Wilfred Lopes Centre. He examined and observed the defendant soon after his arrest and has treated him since then. He gave evidence for the State. Dr Ian Sale is a consultant psychiatrist who interviewed the defendant and gave evidence at the request of the defence. Both Dr Ball and Dr Sale are highly qualified and experienced. They agreed about the nature of the psychiatric illness from which the defendant suffered at the relevant time, and from which he continues to suffer. It follows from the verdict that the jury accepted their evidence which was, in each case, undisputed. The defendant suffers from schizophrenia which manifests itself in delusional thinking. The illness developed insidiously during the second half of 2016 and quickly became serious in early January 2017. On 10 January 2017 he was made subject to a treatment order and admitted to the Royal Hobart Hospital for compulsory treatment. On 27 January 2017 he was released on leave into the care of his family. He absconded to Melbourne but returned and had just arrived with his parents in Launceston having travelled from Hobart. Both psychiatrists were certain that at the time of the attack the defendant was actively psychotic, likely experiencing aural hallucinations and believing that his father was not really his father but someone or something inhabiting his father's body. The defendant was thus responding to a delusional belief that his father wanted to kill him.

The options for dealing with a person found not guilty of a crime by virtue of insanity are set out in s 21 of the *Criminal Justice (Mental Impairment) Act 1999*. The options vary in their level of restriction on a person's freedom, and vary in the level of supervision. I must have regard to the matters referred to in s 34 and s 35 of that Act. I am to apply the principle that restrictions on the defendant's freedom and personal autonomy should be kept to the minimum consistent with the safety of the community. I have the benefit of the reports from Dr Ball and Dr Sale which were prepared for the trial, and since the verdict I have a further report from Dr Ball dated 14 December 2017. Dr Ball recommends a restriction order. I also have a report from Dr Sale dated 14 August 2017 prepared in anticipation of the verdict. It also recommends a restriction order. I accept the opinions expressed by Dr Ball and by Dr Sale in those latter reports. The contents of both reports are not disputed. The defendant has been a resident of the Wilfred Lopes Centre, a secure psychiatric facility, since being taken into custody. He remains very ill and continues to require inpatient mental health hospital care. He continues to refuse contact with his parents. There is a history of non-compliance with treatment including surreptitious attempts to avoid medication. He lacks insight into his condition and is suspicious of his treating practitioners. On the basis of the evidence in the trial and the facts and opinions expressed in the reports I do not see any alternative to a restriction order. The defendant's counsel properly conceded that to be so. The risk the defendant poses to himself and others outweighs the significant restrictions which will flow

from such an order. The nature and extent of his illness is such that he can only be treated in a secure mental health unit, and not in the community. He is unlikely to comply with the conditions of a supervision order. Because Mr Kulinski is already in the secure mental health unit an order under s 39C is not required. I have had regard to the materials provided on behalf of the Attorney pursuant to s 33. The material includes a statement from both Mr Kulinski's parents. I also have another letter from Mrs Kulinski. Their son's illness and these proceedings are understandably very traumatic and distressing for them. It can only be hoped that their son's health improves so that he can be returned to their care.

I make a restriction order under s 24 of the *Criminal Justice (Mental Impairment) Act*, requiring Mr Kulinski to be admitted to and detained in a secure mental health unit until the order is discharged by this Court.