

On 17 August 2022, I found Mr Smyth not guilty of a charge of committing an unlawful act intended to cause bodily harm, on the ground that he was insane at the time. The finding of insanity arose from his experience of symptomology of a long-standing underlying condition of schizophrenia. Section 21 of the *Criminal Justice (Mental Impairment) Act* provides that in the case of such a verdict, I am to make one of the orders set out in that section. In making that decision, I am guided by the principles set out in s 34, and must take into account the matters prescribed in s 35(1). I have also been provided with a report from the man against whom the crime was committed. This sets out his views about the appropriate disposition. I must say that I found his remarks to be thoughtful, perceptive, unselfish and helpful. I also have the benefit of updated reports from the two forensic psychiatrists who provided evidence at the trial.

Having regard to the violent, dangerous and unprovoked nature of this attack, and its direct link to Mr Smyth's underlying mental health, it is obvious that the only real options for disposition in this case are either a restriction order or a supervision order. Both psychiatrists recommend a restriction order. I agree with this recommendation. The primary factors supporting this conclusion are as follows:

- (a) Mr Smyth is now 48 years of age. He was diagnosed with schizophrenia at 31 and had been experiencing symptoms, including auditory hallucinations, for many years before that. His positive symptoms have been treated with various forms of anti-psychotic medication over this time. His compliance with treatment, in particular, taking the medication has been variable and subject to his social circumstances from time to time. It has also been affected by his long-standing and ongoing misuse of alcohol.
- (b) This is not the first time that Mr Smyth has acted in a violent way when affected by the symptoms of schizophrenia. Prior acts of violence include assaulting another patient during a hospital admission in 2018. Further, he has a relatively lengthy criminal history. I have no doubt that this history is consistent with his ongoing difficulty in living with and managing his mental health while in the community.
- (c) Mr Smyth's social circumstances and compliance with treatment have become more problematic and chaotic since his mother passed away about four years ago as I understand it. Prior to then, he lived with her and it seems she provided some stability in his life and some supervision of his use of prescribed medication. He has no other family or community support. The deterioration in his social circumstances and a commensurate decline in his mental health since his mother's death, culminated in the attack on the complainant in this case. The attack itself and the circumstances leading up to it demonstrate vividly both his incapacity to properly comply with treatment and self-manage the symptoms of the schizophrenia when alone in the community, and the inability of community mental health resources to ensure that compliance.
- (d) Mr Smyth has been in custody since his arrest shortly after the attack. He has been subject to ongoing and supervised treatment in this environment. The medical evidence indicates that he is currently well, but this is largely attributed to the supervised treatment. All of the doctors, including his treating psychiatrist in the prison, are of the view that there is a significant risk that if he is released back into the community without prior significant

rehabilitation and a plan for ongoing support, his mental health will again deteriorate with consequent risk to both the community and himself. As already noted, he has no personal support network and there is no current feasible or proven plan for managing him in the community. In these circumstances, there is simply not adequate resources for his treatment and support in the community. I am satisfied, therefore, that he would not be likely to comply with the conditions of the supervision order. Such an order will not sufficiently obviate the said risks, and is in my view not appropriate in the current circumstances.

- (e) A restriction order, of course, will mean that Mr Smyth will remain in custody for an undefined period. However, Dr Jordan describes in some detail the significant benefits of this option, both to Mr Smyth and to the community. He is currently being held in Risdon prison, but under a restriction order he will be returned to the Wilfred Lopez Centre, where his rehabilitation can be specifically addressed. This includes continuation of anti-psychotic therapy, together with psychological and alcohol rehabilitation therapy. He can be reintroduced back into the community in a staged and controlled way, through what Dr Jordan describes as a "well-established leave program". This would seem to maximise the prospects of an eventual successful transition back into the community on a full-time basis, with the risks to others and to Mr Smyth himself reduced to an acceptable level.

It follows that I am satisfied that the only appropriate disposition in this case is a restriction order. Accordingly, I order that Mr Smyth be admitted to and detained in a secure mental health unit until this order is discharged by this Court.