

Sean and M.

**IN THE SUPREME COURT OF TONGA
CRIMINAL JURISDICTION
NUKU'ALOFA REGISTRY**

CR 35 of 2020

BETWEEN : REX

- **Prosecution**

AND : 'OKUSITINO MO'UNGA

- **Accused**

BEFORE HON. JUSTICE NIU

HAVING READ the psychiatric report of the authorised psychiatrist, Dr. Pita Pepa, dated 18 June 2020, and his finding that the accused was suffering from mental disease of mental and behavioural disorders and that it was most likely that the accused was overwhelmed by delusions which deprived him of the capacity to understand that his actions on the 10th March 2019 at Talasiu were wrong, such that in his opinion the accused was insane for the purposes of Section 17(1)(b) in that the accused was suffering from such a state of mental disease as to deprive him of the "capacity to understand that such act or omission was wrong",

AND HAVING READ Ms. 'Aunofa 'Aholelei's submissions dated 31 July 2020 in which she has submitted that although the accused has, on 27 July 2020, pleaded not guilty to the two offences with which he is charged, the outcome of a not guilty trial will be that the accused is not guilty on the ground of insanity, in which case, she submits, S.20 of the Criminal Offences Act must apply,

AND CONSIDERING that section 20 provides that where any person is found to be insane under the provisions of either section 18 or 19 hereof (and section 19 being the provision which applies section 17) the Court shall order him to be detained in safe custody in such manner and place as it determines,

AND ALSO CONSIDERING that section 80 of the Mental Health Act provides that where a person has been found to be not guilty of an offence by reason

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of insanity under Section 19 of the Criminal Offences Act, the Supreme Court may order that the person be taken to a mental health facility or admitted to a mental health facility as a forensic patient,

AND WHEREAS the Crown, as conveyed in Mrs 'Aholelei's submissions, has submitted that the accused be accordingly detained as a forensic patient in the custody of the Psychiatric Ward at Vaiola Hospital,

AND BEING SATISFIED that it is, in the circumstances of this case, the correct thing to do,

IT IS ORDERED:

The accused, 'Okusitino Mo'unga, is declared a forensic patient for the purposes of the Mental Health Act and shall forthwith be taken into the custody and care of the Psychiatric Ward of the Ministry of Health at Vaiola Hospital.



[Handwritten Signature]
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J U D G E

NUKU'ALOFA: 11 August 2020.