

## **PAROLE DETERMINATION – AMINIASI TUIFUA**

The inmate AMINIASI TUIFUA together with three other men pleaded guilty on 26 July 2007 before her Honour Justice Latham in the Supreme Court to the manslaughter of Shane Miles and to maliciously inflicting grievous bodily harm in company upon Gerard Meehan. The offences occurred on 18 December 2004 at the Bells Hotel Woolloomooloo. They had originally been indicted for murder. However the Crown accepted the guilty pleas offered in full discharge of the indictment.

Early in the evening of 17 December 2004 one of the co-offenders Joseph Leota while drinking in the Bells Hotel with a friend became involved in an argument with a group of men including Mr Meehan. Leota provoked a fight by hitting a member of Mr Meehan's group. It was only then that Mr Meehan joined in punching Leota. As a result Leota was escorted from the hotel by the victim's brother Danny Miles shortly after 11 pm. As he was leaving Leota said to Mr Meehan "I'll get you for this".

In her summary of the facts her Honour said, inter alia:

*"Some five minutes later, Shane Miles went outside the hotel and spoke to Leota. Leota was heard to say to Mr Miles "I've got a fat lip and he took a cheap shot. I want him outside." Leota then made a call on his mobile phone saying "Bring the boys down the Bells Hotel and clean this joint out". Shortly afterwards Leota was heard to say "I'm not just going to let someone cut me up for nothing". A bartender at the hotel told Leota to go home but Leota replied "no, this isn't over" and "I'm gonna call my boys, this isn't over, Shane". At this time Leota was seen trying to make a call on his mobile phone.*

*"From about 11:22 p.m. Leota made a series of phone calls to the prisoners Taiseni and Motuapuaka. These two offenders travelled with the prisoner Tuifua from the Villawood area to Woolloomooloo where they met the prisoner Leota.*

*At about 12:44 a.m. the four prisoners entered the Bells Hotel from Cowper Wharf Road. Mr Meehan was standing near the bar. The sight of four physically large Islander males entering the hotel caused one of Mr Meehan's group to run behind the bar and tell Danny Miles to call the police. One of the prisoners approached Mr*

*Meehan and asked him to go outside to talk. Mr Meehan refused. Mr Meehan then moved quickly towards the bar and was chased by Tuifua, Taiseni and Motuapuaka. As Mr Meehan approached the bar, Tuifua grabbed hold of his red T-shirt, causing the T-shirt to tear.*

*Motuapuaka then picked up a wooden bar stool and raised it above his head. As Mr Meehan was going behind the bar, Shane Miles approached Mr Meehan from inside the bar area and attempted to stop him. Motuapuaka then swung the bar stool with considerable force towards Mr Meehan, glancing off the shoulder of a barmaid before striking the head of Shane Miles. Mr Miles' skull was extensively fractured and he suffered brain damage as a result of the blow.*

*Mr Meehan continued to move further behind the bar, past Shane Miles who lay on the floor. Motuapuaka followed Mr Meehan on the opposite side of the bar, then stood near the corner of the bar and threw objects over the bar at Mr Meehan, including glasses and bottles from nearby tables.*

*Leota meanwhile moved to the other end of the bar and threw a chair over the bar at Mr Meehan. Mr Meehan was struck in the face and fell to the ground. Leota then went behind the bar to where Mr Meehan was lying and kicked Mr Meehan to the head. The injuries sustained by Mr Meehan as a result of this assault are the subject of the maliciously inflict grievous bodily harm count. Mr Meehan's upper lip required suturing and his teeth and jaw required ongoing medical and surgical attention.*

*Whilst this was happening, Taiseni and Tuifua were standing near to Motuapuaka. Tuifua left the hotel, shortly before Motuapuaka threw yet another chair towards Mr Meehan. Taiseni then moved towards Motuapuaka, placing a hand on his shoulder, indicating that they should leave. At that point the three remaining offenders left the hotel. When police arrived a few minutes later, they were no longer at the scene”.*

For his involvement in the crimes Tuifua was sentenced on the charge of manslaughter to three years and seven months imprisonment expiring on 2 October 2009, with a non parole period of two years and two months expiring on 2 May 2008. On the charge of maliciously inflict grievous bodily harm he was sentenced to a fixed term of two years and eight months expiring on 2 November 2007. That sentence has already expired.

In accordance with its statutory requirements the State Parole Authority considered the inmate Tuifua for parole at its meeting on 29 February 2008. To assist it in its deliberations on that occasion the Authority had access to her Honour's sentencing remarks, the inmate's criminal antecedents, the OIMS and a Probation and Parole Pre-Release Report. The Authority on that occasion determined to refuse parole on the grounds that the inmate needed to further address his offending behaviour concerning addiction issues in that he needed to complete the program Self Management and Recovery Training (SMART). The Authority also determined that the inmate should have that determination reviewed.

The matter was initially listed for review on 1 April 2008 when Mr Hails, solicitor, appeared for the inmate.

The Authority had a supplementary Pre Release report in which the Probation and Parole Officer advised that the inmate had successfully completed the "Choosing Non Violence" program in December 2007. That was a module of the Phoenix program which aims to facilitate deeper understanding of the short and long term effects of crime and violence on victims. The inmate also attended an individual Alcohol and Other Drugs counselling session in November 2007

The inmate was assessed for participation in the Violent Offenders Therapeutic Program in February 2008 by Psychological Services at Cessnock Correctional Centre. However it was noted by the Psychologist that Mr Tuifua did not have the necessary language skills and literacy levels needed to understand the program.

The matter was stood over until today for further review. The Authority requested a supplementary Probation and Parole report concerning the inmate's participation in the program "Controlling Anger and Learning to Manage it" (CALM) together with a recommendation.

The Authority has now received that report, which indicates, inter alia:

*"Mr Tuifua has made steady progress in relation to the requirements set for him. He has enrolled in any program directed of him, including the current CALM program, due for completion 8/5/08. The inmate has an offence free record in custody, and has no adverse comments against him either in classification or employment. Mr Tuifua's family remains supportive towards him.*

*His release to Parole is recommended, and the conditions suggested in the report dated 15 January 2008 remain current”.*

It is now the Authority’s responsibility to determine whether or not the inmate should be released to parole.

Her Honour imposed a sentence which will expire on 2 October 2009 and a non-parole period which expired on 2 May 2008. The inmate has enrolled in and satisfactorily completed all programs required of him to address his offending behaviour. Psychological Services after assessing him for the therapeutic program VOTP found that he did not have the necessary language skills to participate in that program. However he did participate in the therapeutic program Phoenix. He has addressed his alcohol and other drug issues by participating in programs and counselling.

Having regard to the principle that the public interest is of primary importance, the State Parole Authority has decided that subject to the receipt and consideration of any submission from the Commissioner that the release of the offender is appropriate.

In making this decision the Authority has had regard to the need to protect the safety of the community and the need to maintain public confidence in the administration of justice.

The Authority therefore makes an order granting Parole on 27 May 2008 with conditions 1-14, 17, 18, 26, 30 (in regard to Gerard Meehan and the Miles family) and 38 (Woolloomooloo). These conditions are set out in detail on a copy of the Parole Order attached to this determination and will be explained to the inmate prior to his release from custody onto parole.

In reaching this determination the Authority has had regard to the following matters relevant to section 135 of the Crimes (Administration of Sentences) Act 1999:

1. The Sentencing Court.

Her Honour found special circumstances in fixing the non-parole period when she said:

*“He has no prior convictions. His prospects of rehabilitation are excellent. The prisoner offered to plead guilty on the day fixed for trial. A discount of 10% properly reflects the utilitarian value of those pleas. In the case of each prisoner, I find special circumstances on the basis that the sentences I am about to impose represent the first time that each of them have entered custody”.*

## 2. The Offender's Antecedents.

The Authority notes that the inmate has no prior convictions (as noted by her Honour) and it is his first time in prison.

## 3. The likelihood of the offender being able to adapt to normal lawful community life.

Her Honour found that the inmate's chances of rehabilitation were excellent. His progress and generally good behaviour in custody together with his co-operation and participation in programs suggest that her Honour's comment is still appropriate.

## 4. The likely effect of the inmate being released on the victim or victim's family.

The Authority takes into account the impact on the relatives of the late Shane Miles and the injured Gerard Meehan.

The offences occurred so comparatively recently that Mr Miles' family must still be consumed with a grief and anger which are still raw. Mr Mile's tragic death and Mr Meehan's injuries were sustained in circumstances arising out of what her Honour described as "a trivial and pathetic dispute between the prisoner Leota and Mr Meehan regarding the use of a pool table in the Bells Hotel" and what her Honour described as "a brutish, cowardly and uncivilized response to his rebuff by Mr Meehan and his friends".

The members of the Authority extend their sympathy to the victim and victim's family for this tragic event.

## 5. Reports.

The Authority notes that release to parole is recommended by the Probation and Parole Officer in the Pre Release reports.

## 6. Offender's Conduct and attitude.

The Authority notes that the offender has had an excellent prison performance. He has participated in the relevant therapeutic program of Phoenix.

He has also completed relevant custodial programs in relation to Alcohol and Other Drugs, SMART, CALM and Anger Management. He also

participated in English Speaking Classes and received positive reports regarding his level of motivation and participation in class.

He participated in one to one Alcohol and Other Drug counselling and psychological counselling.

#### 7. Availability of Support.

The inmate has strong family support as well as community support.

#### 8. Post Release Plans.

The inmate has suitable post release accommodation and will be residing with his wife and four children.

He has access to and has indicated a willingness to participate in relevant community counselling and programs upon release.

Mr Tuifua - the conditions attached to the parole order are designed to assist you to live a normal law-abiding life. Each one of those conditions is equally important and should you breach any of them then your parole will be revoked and you will be returned to custody to serve a minimum of twelve months before you can again be considered for further parole.

I draw particular attention to condition 17, which requires you to abstain totally from alcohol and to attend such counselling and programs as your Probation and Parole Officer and/or Compliance and Monitoring Officer directs you. I also draw your attention to the need to report as often as you are directed to your Probation and Parole Officer and/or Compliance and Monitoring Officer and not to move your residence without the prior approval of the same officer.