

**IN THE DISTRICT COURT
AT PAPA KURA**

**CRI-2017-092-008510
[2017] NZDC 27525**

NEW ZEALAND POLICE
Prosecutor

v

LUKE STEFAN ADAMS
Defendant

Hearing: 4 December 2017

Appearances: Sergeant R Bland for the Prosecutor
H Cherrington for the Defendant

Judgment: 4 December 2017

NOTES OF JUDGE C J McGUIRE ON SENTENCING

[1] Mr Adams, you appear for sentence today on a total of 39 charges. There are amongst those 39 charges a discrete charge of theft of a leaf blower which is the most recent offence, that was from 21 July of this year, car conversion on 10 June of this year, breach of bail on 6 June and breach of intensive supervision from 18 April of this year. I mention these things first because the whole point of intensive supervision was to provide the most wraparound and intensive rehabilitative community-based sentence that we have in this country but you telegraphed right at the get-go that you were not going there, so to speak.

[2] The first charge dates from 19 September 2016 and that was obtaining by deception, as are all the remaining charges. Back on 19 September 2016 you obtained a pecuniary advantage by deception of \$450 from [a pawnbroker]. When you

appeared in Court on that matter on 8 February 2017, this year, you were put on bail and you have gone on to commit 38 further offences while you were on bail.

[3] You are 23 years old at the moment and you have quite a record for dishonesty. You started off with shoplifting in 2011, then in 2013 and 2014 you gathered momentum and it seems like during 2014 obtaining by deception became your crime of choice. Along the way you have been fined, you have had sentences of community work and reparation, you have been sentenced to imprisonment in 2015 and in January 2017 the Court decided to try something different and that was the sentence of intensive supervision.

[4] So, in fact virtually all of these crimes of obtaining by deception have been committed while you have been subject to the rehabilitative sentence of intensive supervision and that makes someone like me, Mr Adams, deeply suspicious when I read that you have seen the light since you have been in prison. I will come back to that.

[5] The PAC report, as I have said to your counsel, is about your antisocial associations, your lifestyle, your pro-criminal attitude towards obtaining goods by fraudulent means, your association with gang members who you say used intimidation to influence your behaviour. The report does note, however, that there were elements of acceptance and self-accountability during the interview but that you tended to shift focus onto the role that your associations have played in all this.

[6] The probation officer regards you as at high risk of committing further offences and a custodial sentence is recommended and in fact is inevitable, as you will appreciate. It says that prior to your remand in custody you were residing across multiple locations and living a semi-transient lifestyle. It also says that prior to this you had a position as a concrete layer and were engaged in this form of employment for three to four years and then again it refers to your gang associations that continued to be somewhat mysterious because of limited information that you have shared with the report writer about it.

[7] So, what do I make of all this? What is plain from the get-go is that you are an intelligent man. You would not have got away with this sort of offending if you were not intelligent. To be able to con the people at [a hardware store] and the other places would have taken some doing and I do not think you could have done it if you were using drugs regularly. The fact that you have done it and got away with it for so long gives me great concern because one interpretation of that is that you may be thinking, "I'm pretty damn good at this, I can get away with conning these people whenever I like so this is what I will do. This will be my life."

[8] You see, you already had your apprenticeship back in 2014 and 2015 with this and then of course you come back with a vengeance this year with about 37 charges of this kind. So, what I am wondering at the end of the day is this, Mr Adams; on the basis that you are an intelligent man, and I think that is beyond all doubt, are you going with the flow and conning the people who are providing you with these rehabilitation programmes? You see, this one says you passed with excellence; again dedication, intelligence is involved there but is it just a con?

[9] You know, I hope I am wrong in even raising that it is a con. If it is, the problem that you face is this. People from here on in are going to be on the lookout about you so even though you are very good at conning people you will find it more and more difficult as time goes by and, you see, with the data matching that we have got these days you are going to be very high on the police list when new charges, when new crimes of obtaining by deception are indicated. Even if you change tack and decide that you are going to do it a different way, you are going to be right up there in terms of suspects, even if you have different targets.

[10] So, Mr Adams, I hope what I am reading is true and that you sincerely do want to change because although you are intelligent you are not so intelligent that you have not been caught. You have been caught. You have been caught multiple times and that is going to continue and you are going to end up spending your life doing a series of terms of imprisonment that will eventually end up being a life sentence except you are doing it by instalments. That is a dumb way to spend your life with the intelligence and abilities that you have.

[11] Okay, so being a concrete layer might not have been the epitome of a flash job. I will tell you what, there is plenty of work for concrete layers out there right now and you would not be looking out of the bars of a cell if you had kept at that job and you know, as counsel said, you have got a whole heap of reparation to pay. That would not have happened if you had stuck to a good and well remunerated job, which they are these days with the amount of building that is going on in our community.

[12] So, where I am left, Mr Adams, is to look at your record, to look at all the other things that I have and I think, as your counsel candidly acknowledges, that there is not too much he can quarrel with from what the police say in their submissions. You know, it has taken time but you have now graduated to the big league of offenders. You are there. If that has been your goal in life you have made it but what that means is that my focus has got to be on deterrence, that is deterring you and others from doing the same thing, and what they call denunciation and that is sending out a message that this sort of offending is not going to be tolerated, that if you do it you will go to jail for a significant period of time.

[13] So, regrettably, I have to tell you that if you involve yourself further in this sort of offending you can look forward to longer and longer sentences. Now, I do not completely agree with the police in terms of their starting point. The individual charges themselves were not of the worst kind and so, although they say that the starting point should be three years' imprisonment before uplifts, I scale that back to two years and three months. There will be an uplift on that of three months for the remaining dishonesty charges and a further uplift of six months for your prior offending so that, then, gives us an end sentence before discounts of three years' imprisonment. From that you will be entitled to a discount of 25 percent which is a reduction of nine months. That leaves you today with an end sentence, Mr Adams, of two years and three months' imprisonment.

C J McGuire
District Court Judge