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**IN THE YOUTH COURT
AT INVERCARGILL**

CRI-2017-217-000030

CRI-2018-225-000011

[2018] NZYC 218

NEW ZEALAND POLICE

Prosecutor

v

[NB]

Young Person

Hearing: 23 March 2018

Appearances: M Mika for the Prosecutor
A Woods for the Young Person

Judgment: 23 March 2018

ORAL JUDGMENT OF JUDGE B A FARNAN

[1] [NB] is aged 15 and faces a charge of aggravated robbery and a second charge of wounding with reckless disregard. If [NB] was an adult, the aggravated robbery charge, which carries a maximum penalty of 14 years' imprisonment, would almost certainly result in a full-time prison sentence. That would be likely because of the additional factor of the wounding with reckless disregard charge. [NB] has admitted this offending, which occurred on [date deleted] at [location deleted].

Allegations

[2] On [date deleted] [NB] and some associates discussed doing a robbery at [the store] in [location deleted] to get some money. The next day [NB] and [number deleted] friends gathered at [LO]'s home, where [NB] armed himself with a machete, and [LO] with a butcher's style kitchen knife. One other offender also had a hammer.

[3] At 6.30 pm the [number deleted] boys - [NB] and his [number deleted] associates - went to the local high school fields where they waited until sunset when they decided to carry out the robbery. [NB] and [LO] and one other, who I understand was aged 12 at the time, entered [the store] armed. They were also disguised to the extent that they were wearing hoodies and pulled up their jerseys and pulled down their hoodies to disguise their faces.

[4] The victim, [name deleted], heard the [number deleted] boys enter the shop and confronted them. [LO], armed with the knife, and [the victim] scuffled, while [NB] and the other young person removed money from the till. During the scuffle the victim, fearing for his safety, grabbed the knife with both hands and attempted to remove the knife from [LO]'s grip. Failing to obtain the knife, [the victim] released his grip and the [number deleted] boys ran from the store with an unknown amount of cash. This cash was divided among the [number deleted] boys. The other [number deleted] had remained outside when their [number deleted] associates had entered the store.

[5] This was not the first time this shop had been robbed and the victim was immediately afraid. His wife was also present in the premises, at the back of the store. [the victim]'s hands were cut from when he had tussled over the knife with [LO].

According to him, the boys sprayed around pepper before they left the store, in his view to deter the police dogs tracking them.

[6] [NB] told his social worker the idea to rob the store was initially brought up as a joke but they were all keen. [NB] said although he had a machete and [LO] had a knife, there was no intention to hurt anyone with the knife. Rather, the knife and the machete were meant to intimidate the store owner, not to hurt him.

[7] [NB] said he did not need the money they took but just wanted some. He said he would not have committed the robbery on his own. He used his share of the money to buy alcohol and weed, amongst other things.

Family group conference

[8] A family group conference was convened on 8 February 2018 to discuss these current charges, and other less serious charges [NB] was then facing.

[9] On 16 February 2018 I discharged [NB] in respect of all of the other charges under s 283(a) Oranga Tamariki Act 1989.

[10] At the family group conference, no agreement was reached in respect of the aggravated robbery and wounding charges.

Crown application for transfer

[11] Mr Mika appears for the Crown on behalf of the prosecution today. He seeks an order under s 283(o) of the Act that [NB] be transferred to the District Court. That application is opposed by [NB] youth advocate, Mr Woods.

Victim's view

[12] [Name deleted], the victim, also seeks that [NB] be transferred to the District Court. This aggravated robbery has severely frightened him. [the victim] is now an elderly man in his late [age deleted] who has operated this particular store for some

[number deleted] years. This is the third time his store has been robbed and each time [the victim] reports it has been more serious and scary for him.

[13] [The victim] says that he feels lucky that he did not suffer any lasting damage to his fingers and has made a full recovery. He has regained the full use of his fingers and hands. He believes he is fortunate the robbers were young and not fully grown, as he still had enough strength to push back.

[14] As I commented earlier today when I was dealing with one of [NB]'s co-defendants, [JT], it was lucky, in some respects, that [JT] did not enter the premises as he appears bigger in size than the rest of the offenders.

[15] [The victim] had been angry after this robbery and has had quite a few sleepless nights, which certainly is understandable. He still gets afraid now if young people come into his shop wearing hoodies. [The victim] said he holds no grudges towards the young offenders and that is a credit to him. He believes that if the young people who had previously robbed him had been dealt with more harshly, then it may have deterred them and others from robbing and stabbing him at this time and that comment, [NB], is directed at both you and [JT] that were involved in the earlier aggravated robbery of the same [store].

[16] [The victim] believes 'the penalty should fit the crime' and that the offenders should be locked up for what they did. He was annoyed that he learned that one of the young people had since been involved in an assault at the residence - and that was in fact you, [NB] - as [the victim] believes that you do not want to mend your ways or take the whole thing seriously. If you did, you would not have been offending while at residence. [The victim] thinks that the penalty should now be higher, to put off other young people from doing this sort of thing. He believes drugs have been playing a part in the lives of these young offenders and that drugs are a problem for this entire group, an observation with which I agree.

Crown submissions

[17] The Crown seek a transfer to the District Court in respect of [NB], on the basis that [NB] was involved in a robbery of the same property about 12 months earlier for the same offence, ie, aggravated robbery. Mr Mika submits that this is a particularly aggravating feature of the current offending which warrants what is referred to as a “Group 7 response” (ie a transfer to the District Court).

[18] The Crown submits that at age 15, the Crown has jurisdiction to transfer [NB]. The Crown also submits that when having regard to the s 284(1) factors which the Court must consider, the Court needs to consider that [NB] armed himself with a machete and took it to the scene, on his own admission, to at least intimidate the store owner; and that [NB] has relevant previous admitted offending, in particular aggravated robbery in respect of the same victim. That incident occurred on [date deleted].

[19] The Crown rely on the Youth Court decision of His Honour Judge Lynch in *Police v JMG*¹ at page 285 in which His Honour concluded the offending, also aggravated robbery, was serious, that the defendant in that case had a propensity to violence, other interventions had provided no deterrence, and the public needed protection. In *JMG* the young person was armed with a large kitchen knife when he robbed a dairy with two associates. In *JMG* the victim was not harmed but the young person had previously admitted similar offending.

[20] The Crown submits that [NB] offending is similar to *JMG*, if not more severe. [NB] taking a machete to the scene, the Crown submits, indicates a degree of planning on his behalf. This offending followed earlier aggravated robbery offending of the same premises and the Crown submits that sanctions for that offending, being a supervision order and other penalties, had not deterred [NB] from re-offending. Further, it was noted, which Mr Mika confirmed today in oral submissions, that [NB] had only just returned from completing the Mirror Day Programme which was to assist him with his drug use, yet he re-offended within a very short space of time. The Crown submits a stern sentence is required in [NB]’s case.

Defence response

¹ *Police v JMG* NZYC New Plymouth CRI-2014-243-83, 23 December 2014.

[21] [NB]'s youth advocate, Mr Woods, however, submits very forcefully on behalf of [NB] that I should stand back from a transfer and should sentence [NB] to supervision with residence for a period of six months, when a supervision order can then be considered and added to that sentence.

[22] Mr Woods clarified that submission in Court today and said that if the Court took into account the six months or so that [NB] has already spent in custody, together with a further six month with residence sentence and a supervision sentence that could be for 12 months, that [NB] would, in effect, be the subject of orders for a period of some two years from the time of the offending, and that such restrictions would place on [NB] the obligation to have no contact with his co-defendants, which is likely a risk factor for [NB] in terms of whether or not he is likely to re-offend in the future.

[23] Mr Woods reminds the Court in both his oral and written submissions of the Youth Court principles set out in the Act. In particular, he referred to the principles in s 208 in his written submissions. He also reminded the Court that I am obliged by law to impose the least restrictive outcome on [NB], which would be the supervision sentence with residence which Mr Woods promotes today.

[24] Mr Woods further submits that the supervision sentence that would follow the supervision with residence sentence would have such conditions that would have significant restrictions for a 15 year old. This would, in Mr Woods' submission, adequately and firmly deal with [NB] offending, while including a rehabilitative element with conditions suggested by a social worker which could be firmed up towards the time of [NB] completing a residence order.

[25] Mr Woods submits that if [NB] received oversight and assistance from a social worker, he would pose less risk to public safety. He also submitted that most of [NB]'s offending, or certainly the offending for which he is being sentenced or dealt with today, was in the company of others, and if there were restrictions on him having such associations then his risk of re-offending would reduce.

[26] In response to that, Mr Mika has today submitted that [NB] seems to seek out young people of like ilk, as he did when he was on the Mirror Day Programme.

[27] Mr Woods confirms that [NB] has a supportive family and has a support network. That is certainly evidenced to me by his mother's regular attendances at Court and I recognise her attendance today, as well as other support persons, including [NB]'s father.

Other relevant material

[28] I have received, additionally, letters from family members of [NB] and from [NB] himself which I have read.

[29] I am aware that [NB] family have made enquiries on his behalf in terms of being able to obtain employment for him when he is no longer in a custodial situation.

[30] I have also received a copy of a certificate from Mr Woods today, confirming that [NB] has achieved some competencies towards his NCEA Level 1, particularly dealing with literacy, and Mr Woods tells me today that [NB] is expecting to receive the same completion certificate in terms of NCEA numeracy Level 1 shortly.

[31] Mr Woods submits a sentence of imprisonment would see [NB] mixing with, and being influenced by, gang members, which could have a life-long impact on him.

Specialist report

[32] The recommendation in the social work report for [NB] is not for transfer but is for the very orders that Mr Woods is seeking on behalf of [NB]. What is promoted for [NB] by the report writer is a six month supervision with residence sentence, with various conditions which would require [NB] to complete his NCEA Level 1, participate in the agricultural programme, Inspire programme, attend an anger management programme, career development, and a mentoring programme amongst other things, and including participating in an alcohol and drug counselling programme, with the additional opportunity of giving back to the community.

[33] It would also be expected that [NB] not show any violence towards staff or other residents, and that would be followed up by a 12 month supervision order with conditions that would be firmed up at the time of the making of such an order.

Section 283 - factors for consideration

[34] Before I can contemplate a transfer under s 283 (o) which is sought by the Crown, I must consider the factors in s 284 (1) of the Act, starting first with subs (a).

[35] I need to consider the nature and circumstances of the offence provided to have been committed by the young person and the young person's involvement in that offence. [NB] was involved in what was a planned robbery of [the store] in [location deleted]. He had robbed this [store] previously so was familiar with the premises. Of the [number deleted] offenders who actually entered [the store], two were armed. [NB] was one of the offenders who was armed. It is unclear on the evidence before me which one of the offenders carried the hammer which was apparently also taken to [the store]. [NB] had a machete with him which he says he took into the property to intimidate the owner. All of the offenders who entered [the store] were disguised in the way in which I have already described.

[36] The Crown position is that [NB] was likely the ringleader, particularly as he had been involved in similar offending at the same property previously. I accept that [NB] was one of the instigators of this offending and I consider him as culpable – if not more culpable - as [LO] who wielded the knife and was involved in the incident that wounded the [store] owner, particularly when I reflect on the fact that [NB] had offended at those premises previously.

[37] In terms of subs (b) which I am required to consider - being the personal history, social circumstances and personal characteristics of [NB], so far as those matters are relevant to the offence and any order that the Court is empowered to make in respect of it - I have read the detailed social work report prepared for [NB], as well as the other material submitted to me by Mr Woods and I have already detailed some of that material today. I thank all of the persons who have taken the time to prepare that material and submit it to the Court.

[38] [NB] strikes me, I have to say, as a young person who, despite having had the clear support of his family - in particular his mother and, I accept, the support of his father, and assistance from the Court and social agencies when he has previously

appeared in the Youth Court - would seem, once he is outside of the strict constraints of Court orders, to do what he wants when he wants. This is particularly relevant when I reflect on the fact that this offending happened within a matter of days of [NB] completing Mirror Day Programme in Dunedin which was, amongst other things, specifically imposed upon him to give him help with his drug issue.

[39] On [NB]'s own admission, he used some of the money stolen from the [store] to buy alcohol and "weed", and as Mr Woods on his behalf quite candidly commented today, that programme was clearly, at that time, not effective for [NB].

[40] I am aware that [NB]'s family remain supportive of him and have gone so far as to seek employment opportunities for him which I have already mentioned. I accept [NB]'s family are concerned that a sentence of imprisonment, if that is imposed in the District Court on him, will see [NB] mixing with and being influenced by gang members, which could affect his future life. However, sadly, it is apparent, despite [NB] family being supportive of him, that in my view they have no control over his behaviour, as shown by his consistent re-offending since his first appearance in the Youth Court.

[41] I recall specifically [NB] addressing me when I first sent him into custody and he had to spend time in Te Puna Wai, when he assured me that that had been a wake-up call for him and he would not be back before the Youth Court. The reality for [NB], however, was quite different and he then continued to regularly appear before me in the Youth Court between that first appearance and the first time I sent him to Te Puna Wai, until today's date.

[42] In fact, I have to say, [NB], that I see you as one of the leaders and not the followers in this offending, and I agree with Mr Mika that it is not beyond your capabilities of seeking out like-minded persons to associate with and offend with, if the current co-defendants are not available to you. I see you nodding and I hope that that means that you are reflecting on the fact that you need to make better choices in your life, because the sad reality for you is, if you do not, you will end up serving a lengthy term of imprisonment which is the very matter I know your family and family members are very concerned about.

[43] The third subsection I need to consider is your attitude towards the offence. I accept, [NB], that you apologised to the victim at the family group conference and especially in respect of his injuries. However, I do not accept that you did not and could not foresee that taking a machete and a knife to commit an aggravated robbery did not have the potential to cause the dairy owner physical harm during the robbery.

[44] Additionally, while I accept, [NB], that you have written a letter to the Court explaining why you think you should not be transferred to the District Court, there is nothing in that letter that shows any remorse. Rather, the letter purports to focus only on your needs and shows a lack of understanding of how serious this offending was, particularly when you say you should stay in the Youth Court because if you go to the youth wing, which I presume you mean of a prison, you will be around older people with worse charges. Apart from murder or manslaughter, it is difficult to imagine a much more serious crime committed by a young person - being a robbery of an elderly man when the offenders are disguised and carrying life-threatening weapons, together with the fact that at least two of you had robbed the same premises previously.

[45] What could have happened is that either [LO], you, or the [other] young person could have ended up causing much more serious injury to the owner of [the store]; or, alternatively, his response, particularly when he tried to grab the knife off [LO], could have been, in fact, him causing some injuries, if not something more serious, to [LO], and that would have caused him distress and anxiety, likely for the rest of his life, which would not have been brought onto him by any of his own actions.

[46] Further, I need to consider subsection (d) - the response of you, [NB], your family, whanau, and family group to your offending, and to you yourself as a result of that offending. I accept, [NB], that your family do not want you transferred to the District Court and support you instead receiving a supervision with residence sentence. I accept that your mother, in particular, continues her unconditional support of you, and clearly your father's presence at Court today confirms that that is his position also.

[47] However, it is clear to me that neither your mother, your father, or other family members or supports have any real control or influence over you once you return

home, particularly to the [location deleted] area. You were back from Mirror Day Programme, living with [your close family member], when this offending occurred.

[48] I accept that you have spent time with your [relative] in the past in [area deleted] and it is clear from the letter I have received from her that you continue to have her support. But I cannot accept her comment in the letter which she wrote to me that you have been let down by everyone in this case, and if someone had intervened in the early stages of your offending you would not be where you are today.

[49] At the end of the day, [NB], the ‘buck’ actually stops with you. You have been given a significant amount of assistance and support and I have already gone over all of that today. You have had significant interventions, including time in residence previously and, of course, the Mirror Day Programme. I agree the youth justice system is here to help, but there needs to be some response from the young person themselves. Committing this aggravated robbery within a short period of you attending the Mirror Day Programme shows, [NB], that you have made choices which were not good for you or, clearly, your victim. They were choices that you made independently, in my view. I also accept your mother’s comment that she now understands that you were making your own choices and she acknowledges that you need to be held responsible and accountable for your actions.

[50] In respect of subs (e), I need to consider any measures taken or proposed to be taken by the young person or the young person’s family, whānau or family group to make reparation and apologise to any victim of the offending. There is nothing to add in this subsection. I accept, [NB], that you are not in a position to make any payment of reparation which would be, in any event, what is referred to as an emotional harm payment. My concern is that any remorse expressed by you is because you know that that is expected of you. It is very easy to say “sorry”. What you need to reflect on is whether you mean it, and the biggest apology that you can give your victim is to reassure him that you will never be involved in this sort of activity ever again.

[51] In terms of subs (f), I need to consider the effect of the offence on any of your victims and the need for reparation to be made to that victim. As I have said, there is

no prospect of you making an emotional harm payment and I do not expect your family to have to make such a payment.

[52] In terms of your victim, it is clear that [the victim] has been seriously impacted by this offending. He has spoken about the impact on him in the various material that I have read and which is before me. I only hope, [NB], that you have had the opportunity to read about those comments and now have an understanding of the impact on him of this offending, particularly as you would have heard him also speaking at the family group conference.

[53] Not only could there have been a death during the course of the robbery, there was also the potential, as I have already discussed with you, of a very serious injury, and [the victim] did, in any event, suffer an injury and that is why you are facing the wounding with reckless disregard charge, albeit as a party [LO]'s actions. You have to understand, [NB], that while you may not have intended any harm to [the victim] on that night, taking weapons to a robbery, particularly a knife or a machete, are likely to result in some harm, if not something more serious.

[54] This offending is made worse for [the victim] because his [store] has been robbed before and you were one of those robbers. [The victim] thinks you should go to jail so that you can learn from your criminal behaviour.

[55] In terms of subs (g) - any previous offence proved to have been committed by the young person and any penalty or order made in relation to that offence and the effect on the young person of the penalty or order - I am now getting to a point, [NB], where I am starting, I accept, to repeat myself. In this case you have previously been the subject of Court orders in the Youth Court. Those orders have not deterred you from further offending. It is almost as if, [NB], you think that you are 'untouchable', and that is sometimes the word that other Youth Court Judges use in respect of young offenders.

[56] Mr Woods submits, because you are still only 15, that there is time available in the youth justice system for you, and that a supervision with residence followed by

a supervision order is a serious penalty and is the least restrictive outcome and - particularly important - it is supported by your social worker.

[57] In your case in particular, I cannot avoid the fact that you had robbed the [store] previously and that you had, in fact, attended a family group conference for that offending with the same victim. Yet it is just over a year later that you are back robbing the same premises. The supervision sentence imposed at that time for the 2016 offending was no deterrent.

[58] Mr Woods seeks to distinguish you from the *JMG* case relied upon by the Crown on the basis that *JMG* appeared to have been a young person who had committed four separate robberies compared with your two; that he had gang affiliations and had already served a supervision with residence sentence, whereas I accept, [NB], you have not been in residence on an order previously. Additionally, Mr Woods says that you have done well while in residence and I have already acknowledged the receipt by you of the NCEA qualifications.

[59] You have presented as respectful, polite and pleasant, and doing well with your education. Mr Woods also says that while you have spent time in secure you have been learning to make better choices and to manage yourself better, and that the resident staff consider that time in custody to be more situational than anything. One would hope that is the situation - that while in residence, [NB], you have changed. However, I cannot get past the fact on one level that you were charged with the criminal offence of assaulting another young person, which you admitted, and you also had spent time in secure for other breaches of rules and regulations, so at least at some stage while you were in the confines of residence, you struggled to moderate and better manage your behaviour. It may well be that more recently, while you have been on remand, those improvements have occurred.

[60] Mr Woods accepts that you have challenges with behaviour when you are with your peer groups but he is hopeful that you can learn to overcome that in the future, with better management by both you and the supports given to you. However, even after the imposition of the supervision order in December of 2016, you continued to commit other offences until this offending which appears to have escalated with the

aggravated robbery on [date deleted]. You committed a burglary. You took a car. You interfered with other cars. You used a document for pecuniary advantage which I understand was someone's credit card that you found. You resisted the police. You were unlawfully in a building. You caused damage at [restaurant deleted], as well as possessing what I understand was a cannabis bong. To some extent, [NB], you were a mini-crime wave who had a total disregard for other people and property.

[61] You were discharged for that offending under s 283(a) by me recently, which I have confirmed today. That effectively acknowledged, when I imposed that penalty on you earlier this year, that you had spent a considerable period of time in custody. So while Mr Wood is absolutely correct - you have spent something like six months on remand - some of that period I attribute to the fact that I took that into account when I imposed the 283(a) outcome for you in regards to the other offending which I have just listed.

[62] In respect of the considerations under subs (h) - any decision recommended or plan made or formulated by a family group conference - the family group conference, perhaps not surprisingly, could not agree on disposition for you, [NB], with the police wanting a transfer, and Mr Woods, your youth advocate, quite properly on your behalf seeking to have you retained in this jurisdiction.

[63] In respect of subs (i), I need to consider the causes underlying your offending and the measures available for addressing those causes so far as it is practicable to do so. While you were in the community, [NB], it would appear that you lacked structure and supervision. You had issues with drug use. Mr Woods says that any non-association, curfew, work and training courses plus mentoring could help deal with the underlying causes of your offending.

[64] The social work report also confirms similar matters. However, the social work report also comments that your, "...peers continue to have a significant impact," on your, "life and behaviour," but does go on to say that you yourself recognise you need to move away from [location deleted], and there has been some discussion of a possible move back to your [relative]'s care in the [location deleted] area.

[65] The social work report also says, [NB], that you are vulnerable to negative influences of your peers, but it is my view that you are equally able to negatively influence other young people, particularly when one reflects on the fact that you had robbed that [store] before and some of your co-defendants had not.

[66] I commented to one of your co-defendants earlier that once I remanded [number deleted] of you in custody at a youth justice facility, what was then the crime wave in [location deleted] being committed by young persons effectively dried up, and the amount of young people now appearing in the Youth Court in [number deleted] on fresh charges has almost been nil.

[67] The other matter of concern is that not only were you offending in respect of the aggravated robbery with young people of a similar age to yourself, but you were accompanied by a person who is, from a legal perspective, referred to as a child because he was aged 12 at the time of his offending.

[68] The social work report also refers to your behaviour deteriorating when you were unsupervised or loosely supervised and that you have, “struggled in the formal school setting, as well as in alternative education.” “Paid employment,” it is suggested, “might assist you to develop more autonomous thinking, self-regulation, skills and maturity,” and I certainly agree with that comment, if that situation comes to pass.

Conclusion

[69] I am saddened by [NB]’s situation. I acknowledge it is preferable to keep young people within the youth justice system, but in this case the only conclusion I can properly reach is that [NB] should be transferred to the District Court.

[70] I am somewhat surprised that of the [number deleted] young people appearing before me today for this offending, it is only [NB] who has had the benefit of a recommendation in his social worker’s report to stay in the Youth Court. Yet I consider, as I have said, that his culpability is at least on a par with [LO] who had the

knife, and [NB]'s circumstances are aggravated by his previous Court order imposed upon him for the earlier robbery of the same premises.

[71] Therefore, for the reasons I have discussed - including the serious offending of its kind, [NB]'s propensity to commit dishonesty offences including robbery and to offend in general, the fact that other interventions including supervision orders have proved no deterrent, the fact that [NB] has spent time in custody previously has proved no deterrent, and finally the need for me to consider the protection of the public from young persons such as [NB] - I cannot conclude that I can deal with [NB] in any other way but to transfer him to the District Court.

[72] I know, [NB], that that is not what you and your family wanted to hear today and I know that they will be disappointed. But as Judge Lynch said in the *JMG* decision at paragraph 36, "To transfer to the District Court is not me saying to you that you are without redemption or without any redeeming features." If you are genuine, [NB], in your wish to turn your life around, then you need to allow that to happen.

[73] A transfer, of itself, does not inevitably lead to a full-time prison sentence and you have heard me speak directly to Mr Mika about that today. There may be options short of such a sentence. What I will do today is to seek a pre-sentence report and leave all options open; that will be including an appendix for an electronically-monitored sentence.

[74] Therefore, [NB], I will now convict you and transfer you to the District Court for sentencing.

[75] I direct that there be a pre-sentence report with appendices and your remand status continues until 17 May 2018 at 10.00 am.

[76] I have, in preparing for this matter for you today, [NB], and in considering the oral and written submissions of counsel, considered the issue of parity. The issue of disparity on sentencing in the Youth Court is often considered by the Courts as a vexed one. The decision of the legislators to not include it as a factor in s 284 seems to be deliberate.

[77] I have reached a conclusion, when considering the issue of parity, that I can deal with you and your co-offenders in different ways, although I am not at that point yet. I am just raising that comment at this stage to acknowledge that I have considered the issue of parity.

[78] In the meantime, [NB], you are going back with the staff to Te Puna Wai and you will be back here at 10.00 am on 17 May 2018. I would urge Mr Woods to have a discussion in the meantime (perhaps with Mrs Hayes) about his continued involvement. I would support Mr Woods' continuing involvement now that [NB] has been transferred to the District Court.

[79] In respect of the Crimes Act 1961 assault, which it appears may still be before the Court, if I had not already discharged [NB] in respect of that, the intention was that I should have discharged him under s 283(a).

[80] There is one final matter that Mr Woods has raised with me. For some reason, the Court records appear to have referred to - or at least in the social work reports there has been reference to - [NB]'s earlier offending including an unlawfully taking a motor vehicle, when in fact that charge also was an unlawfully interfering with charge. In any event, the fact of whether the charge was either unlawfully taking or unlawfully interfering with a motor vehicle has no impact whatsoever on my decision that I have reached today.

B A Farnan
Youth Court Judge