

**IN THE DISTRICT COURT
AT HAMILTON**

**CRI-2016-019-006017
[2017] NZDC 3882**

THE QUEEN

v

BRODIE-JOEL TE TEOMO

Hearing: 27 February 2017
Appearances: J Foster for the Crown
R Boot for the Defendant
Judgment: 27 February 2017

NOTES OF JUDGE R G MARSHALL ON SENTENCING

[1] Mr Te Teomo has pleaded guilty to a charge of aggravated robbery. Two of his co-defendants are cousins and the fourth co-defendant is a partner of one of those cousins.

[2] On 26 September last year, Mr Te Teomo and the others got together and decided to commit a robbery of [a food centre]. They travelled together in a vehicle. At 2.45 pm Mr Te Teomo and the others arrived at the food centre. They disguised their faces with a combination of hoods, bandanas and sunglasses before getting out of the vehicle and running into the store through the main entrance.

[3] The female co-offender remained in the vehicle and got into the driver's seat. They went in the store and approached the store owner who was standing behind the shop counter. Mr Te Teomo was holding a black air pistol which he brandished and

yelled at the store owner. The victim became very frightened and ran out of the shop. Whilst Mr Te Teomo was armed with an air pistol one of the other co-offenders had a baseball bat. Mr Te Teomo jumped the counter, grabbed the till drawer which had about just under \$800 cash in it and placed it for one of the others to uplift. In the meantime a tray of cigarettes was also taken. They were disturbed and took off through the shop and took the till and cash but left the cigarettes behind.

[4] They drove away. The victim got the registration number. The police were notified and they were stopped and arrested. Inside the vehicle was found the pistol, the baseball bat and documents from the food centre together with cash on each of the defendants. Mr Te Teomo admitted his role in the aggravated robbery.

[5] The Crown have filed written submissions and they have submitted that the culpability of Mr Teomo is high and he also had the weapon. Principles of accountability, denunciation and deterrence should be uppermost in the Court's mind. They refer to *R v Mako*¹ where robberies of this nature being robberies of a small retail shop where money is demanded from the till under threat of use of weapons such as a knife after ensuring no other customers are present and a small sum of money is taken, starting points of around four years are appropriate where a shopkeeper is confined, assaulted or confronted with multiple offenders then five years and up to six years in bad cases.

[6] The Crown identify aggravating features being the use of weapons, threats of violence, the impact on the victim and the pre-planning or premeditation. In my view those aggravating features are appropriate and this offending should by way of starting points as far as Mr Te Teomo is concerned attract a starting point of five years' imprisonment. That is due to the multiple weapons and multiple offenders that were at to the scene.

[7] Mr Boot for Mr Te Teomo obviously pictures the starting point somewhere lower, four years six months but in my view five years is the appropriate starting point having regard to *R v Mako*.

¹ *R v Mako* [2000] 2 NZLR 170 (CA)

[8] As to allowance for guilty plea, it is accepted that whilst Mr Te Teomo missed a case review hearing last year he was then subsequently arrested early this year and entered a plea of guilty promptly.

[9] The Crown say an allowance of 15 percent would be appropriate as the evidence against Mr Te Teomo is high. The offending was captured on CCTV and then they were stopped and caught virtually red-handed. In my view that is an appropriate allowance for a guilty plea.

[10] As to any other mitigating factors none can be given for previous good character as Mr Te Teomo appeared in the Youth Court on 6 July 2011 on a charge of aggravated robbery and received a sentence of supervision with residence. He was 17 years at the time of sentence and 16 at the time of the robbery. In my view that cancels out any credit for good character in the meantime or lack of previous convictions.

[11] Mr Te Teomo's personal circumstances have been difficult in that he has lost a child recently which seems to have set him off the rails and also he is expecting a new child and will not be present at that birth.

[12] In my view a 5 percent allowance for that is appropriate which leaves me with a 20 percent allowance overall for mitigating features which would be a one year allowance which would bring me from five years back to four years.

[13] On the charge of aggravated robbery you are convicted and sentenced to four years' imprisonment.

R G Marshall
District Court Judge