

**IN THE DISTRICT COURT
AT PALMERSTON NORTH**

**CRI-2017-054-001948
[2018] NZDC 4186**

THE QUEEN

v

CHEYENNE TAUTARI PAAHI

Hearing: 6 March 2018
Appearances: J Harvey for the Crown
P Murray for the Defendant
Judgment: 6 March 2018

NOTES OF JUDGE L C ROWE ON SENTENCING

[1] Cheyenne Paahi, you appear for sentence having pleaded guilty to aggravated robbery, two charges of theft ex car, two charges of unlawfully interfering with motor vehicles and one charge of being unlawfully in an enclosed yard.

[2] The aggravated robbery is the most serious offence. You and four others went to the [convenience store] on [date deleted] 2017 in a vehicle that had been stolen by one of your co-defendants. You were all disguised. Two of your associates were carrying weapons; a firearm and a baseball bat.

[3] All five of you went into the [convenience store]. The 17 year old shop attendant was ordered to move away from the till, told to lie down and, when he complied, one of your co-defendants kicked him twice in the face. While all of this was going on, one of the other co-defendants pointed the firearm towards the other adult shop attendant.

[4] While the two shop attendants were held at bay in this way, you and the other two ransacked the till and cigarette shelves, stealing 175 packets of cigarettes, cash and chocolate. These were all placed in pillow cases and a black bag that had been taken to the scene. As you were leaving, the co-defendant with the baseball bat smashed a computer screen and then you all ran from the store.

[5] The items taken in the robbery were worth more than \$7000 but the owner's victim impact statement records that this cost him some \$18,000 having to deal with security, damaged property, and lost goods.

[6] Then, of course, there was the very serious harm to the 17 year old who was kicked in the face, who is suffering ongoing trauma from this event. He could not sleep, could not laugh because the bone in his nose was cracked. He had nightmares about the person who kicked him. He said that when he went to sleep he would get what he called, "A mind cloud," before sleeping, to remind him of the robbery. The two kicks changed the shape of his nose from the inside and part of the bone that was cracked. He does not sleep very well and he gets headaches.

[7] The older shop attendant who was not struck also suffered significant emotional trauma, which he refers to in his victim impact statement. He said that the emotional trauma began later, that he was not enjoying his days going to work. He was not sleeping, it affected him emotionally and he had flashbacks.

[8] The owner of the dairy is the 17 year old's [family member]. When he attended after the robbery he saw the pool of blood from his [family member] on the floor, the damage to his till and computer screen. He and his family were naturally shocked by what had happened in their family business.

[9] I am talking to you today about the impact on these victims because I have a psychologist's report that tells me you are quite an intelligent young man. You have levels 1 and 2 NCEA. When you have had the support of family you have been able to attend school, you have been able to understand things and you have been able to make some progress with your education. It is therefore something of a tragedy that you are here today. But, when I talk to you about victim impact, I am telling you this

because I am sure you understand. I am sure you understand what happened to these people and how terrifying it was for them and the cost, not just in money, but the cost to their lives.

[10] I have a pre-sentence report in which you were very honest, I think, with that report writer. You said you knew what you were doing, you knew what you were getting into, that you had your eye on the money. All you really saw, was the short-term reward.

[11] The psychologist's report is very insightful. It tells us about your upbringing, your background. It is clear that, from a young age, you were let down by your family. Your parents were often not around; you were raised by siblings. You began using drugs and alcohol from a relatively young age.

[12] For a while, you were in the care of your grandmother who was a very positive influence for you and then, after she died, you were pretty much moved from family member to family member, often left to your own devices, and, required to "survive," if I use the words out of the psychologist's report.

[13] In those circumstances, it is not surprising you drifted in with a group of young men in Palmerston North who equally were lacking support from their families, lacking positive adult guidance and in many ways, you all took the lead from each other. Sadly, it was a lead that was always, it seems, destined to result in crime, and quite serious crime, being committed against the community.

[14] After the aggravated robbery, of course, you committed the spree of car break-ins which themselves involved some victimisation. You broke into cars to steal goods or money. In two instances, they were cars parked at the hospital. One of those victims was visiting his terminally ill father. So, as if he did not have enough going on in his life, you smashed the window of his car and broke into it.

[15] Your lawyer has talked today about remorse and I have your letter, where you say you are sorry for what you have done. Again, I am sure you understand how

traumatic it would be for someone whose father is dying to come back to their car and find the window smashed, and that someone has ransacked their car.

[16] But, as I say, the psychologist's report and the pre-sentence report are not all negative. When you have had the right influences in your life, you have been able to achieve and I think you are capable of achievement. There will come a day within this sentence when you will come before the Parole Board and they will want to talk to you about what you are able to achieve.

[17] In custody, you have been open to attending courses: the drug and alcohol course, for which you have obtained a certificate, but also the building, construction and trade skills certificate. It seems to me you are a young man who has potential and, with the right influences, that potential will come to something.

[18] In the pre-sentence report you express a wish to leave Palmerston North and go back to Rotorua where your whānau are. I hope that comes to pass. It seems to me you have no positive influences in this part of the country but you do have positive influences with your family, up around Rotorua. I hope that happens.

[19] The psychologist's report says that you had, "A chaotic early life with limited opportunities." Substance use was modelled to you as an acceptable coping strategy and you gravitated towards antisocial peers. That your early learning experiences were characterised by neglect and parental abandonment, exposure to violence and general antisocial lifestyle linked to your family's gang associations.

[20] As you are now a young adult, I think you may understand who is good for you and who is not good for you in your family, and amongst your associates. You had been taking some form of drugs, either synthetic cannabis or cannabis, on the day of the aggravated robbery.

[21] The psychologist's report says that, as things stand, you are at a very high risk of future imprisonment and you are at medium risk of committing a violent offence. It sets out what it calls, "The dynamic factors," relevant to your risk, in other words, the things you can change. I understand you have a copy of this report. I would like

you to think about the things you can change because they are listed at paragraph 20. They are: work ethic, criminal peers, in other words criminal associates, weapon use, insight into violence, substance abuse, stability of relationships with significant others, community support, impulsivity, cognitive distortions, that means distortions of understanding, and compliance with supervision. These factors are considered potential treatment targets for you, which would provide a baseline for change should you engage in treatment.

[22] I would like you, when you get back to the prison, to re-read paragraph 20, talk to the prison officer who is supervising you and who you work with and who sets programmes with you and talk about the treatment that is relevant to those factors. [defendant indicates he does not have the report] I would like you to have that. I want you to show it to the officer who is in charge of helping you work out what your programme is going to be. It is the blueprint for you and it gives a guide, I think, for the Parole Board as to the sorts of things you can show you have worked on positively, and that you will continue to work on, on release. They are, in many ways, the things you can change.

[23] The report suggests in the future that you remain at risk within an unstructured lifestyle of offending for personal gain, either to purchase drugs or as part of association with antisocial peers. But it recommends that you engage in intensive group-based treatment at a special treatment unit rehabilitation programme, to address your high risk of re-offending.

[24] The report writer consulted with staff at the relevant (STURP) unit, who support the recommendation that you receive this intensive treatment. I am referring to it now and I will sign off my sentencing notes as soon as I can, so that they will go to the authorities and you can be directed into that programme. It is my strong wish that you make it into that programme sooner rather than later.

[25] As far as sentencing goes, I gave you a sentence indication which you accepted. For that aggravated robbery, I regarded it as being a bad case of its kind because of the number of offenders involved, the use of weapons, the violence inflicted on one of the shop attendants, the amount taken, the disguises, the preparation.

[26] My starting point for that aggravated robbery was six years' imprisonment and then I added six months for the other offences. In doing so I had regard to your previous convictions for similar offending. You have 14 dishonesty convictions besides this, which include burglary and breaking into cars, and those offences all happened in less than a two year period. So from an overall starting point of six and a half years' imprisonment, I gave you full allowance for guilty pleas if entered at the time of the sentence indication, which they were.

[27] The focus today has been on other mitigating factors. You are still young; you were 19 years old when you committed these offences. I accept that you are genuinely remorseful for what happened to the young man who was kicked. I think you also need to think about the other victims: the other shop attendant, the person who was visiting their terminally ill father whose car you broke into, and other people whose cars you broke into.

[28] I accept that the violence inflicted on the 17 year old in that robbery was not something you intended. One of your co-offenders took it upon himself to do that but you took advantage of that at the time by carrying on with your role, which was to steal items from the shop.

[29] But as I say, there is a different side to you: your NCEA credits, what I think is your intelligence, I suggest you have a different side and that there is some promise for you. When you say you want to do courses, I accept that is a genuine wish on your part. I therefore give you some allowance for your age, for your remorse and your willingness to engage with treatment and I encourage you to keep doing that.

[30] From that starting point of six and a half years' imprisonment, which is 78 months, I deduct 14 months for those mitigating factors. So that is over a year for your age, your willingness to accept treatment and your remorse. I then give you the full 25 percent discount for your guilty plea, which accounts for another 16 months.

[31] So, from that six and a half year starting point I have deducted two and a half years. The end sentence is four years' imprisonment, that is 48 months. Can I just say though that, if this was to ever happen again, you would not be getting those discounts,

apart from plea. This is the moment for you to take advantage of what the Department of Corrections has to offer you in terms of programmes, but also look to whānau who are able to help you on your release and who will be positive supports for you.

[32] On the charge of aggravated robbery, you are sentenced to four years' imprisonment. For the four charges of theft ex car x 2 and unlawfully interfere with a motor vehicle x2, two months' imprisonment concurrently. On the unlawfully in an enclosed yard, you are convicted and discharged.

[33] I hope you get a copy of that psychologist's report. Look at it carefully and think about what you can change, and those are the things that the Parole Board will want to talk to you about.

Addendum

[34] I direct that a copy of the psychologist's report be made available to Mr Paahi, the Department of Corrections and the Parole Board.

L C Rowe
District Court Judge