

**IN THE DISTRICT COURT  
AT AUCKLAND**

**I TE KŌTI-Ā-ROHE  
KI TĀMAKI MAKĀURAU**

**CRI-2020-004-003350  
[2020] NZDC 27024**

**NEW ZEALAND POLICE**  
Prosecutor

v

**MATTHEW JAMES HARRIS**  
Defendant

Hearing: 23 December 2020  
Appearances: V Brooker for the Prosecutor  
M Pitch for the Defendant  
Judgment: 23 December 2020

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**NOTES OF JUDGE E M AITKEN ON SENTENCING**

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[1] Mr Harris, you appear before the Court today solely for the purpose of sentence in respect of one charge of failing to comply with a direction of a medical officer of health given in the exercise of powers and functions under the Health Act 1956, namely travelling outside his area and associating with people outside his bubble with no reasonable excuse. As will be obvious from the charge, this offending goes back to the time of lockdown, particularly the level 4 lockdown.

[2] The facts are, as we are all now aware, the country went into level 4 lockdown on 25 March at midnight and there were significant restrictions placed on all New Zealanders. For the first nine days that lockdown was deemed to be unlawful and in the course of that you were given a warning. I take that into account in as much as you were on notice from then as to your responsibilities but what is relevant

here is that on three subsequent occasions, twice on 16 April and once on 29 April, you were located in a vehicle with an associate and given a warning for breaching the level 3 lockdown on the last occasion and the level 4 lockdown on the two prior occasions.

[3] The matter that brings you before the Court is that at about 9.40 at night on 5 May when we were still in level 3 lockdown, you were in breach again of the directive to stay at home, you were located again away from your home about eight kilometres from your home in the company of two associates with no valid reason. In explanation you said you had come there to buy three chocolate bars.

[4] You appear now for sentence having appeared on two prior occasions for sentence, 11 November and 17 December. On 11 November you had failed to attend an interview with probation. Against my better judgment I will say now Mr Harris, I gave you a further opportunity to attend the interview with probation. It is clear to me now you had no intention whatsoever of doing so and unsurprisingly on 17 December when you were due for sentence, once again I was told by Community Probation that you had not turned up for the interview. On that occasion you failed to appear. You say you were not well, I do not accept that explanation in light of your comments when you were arrested on the warrant that I issued.

[5] You appear now for sentence. This is deliberate offending, a clear flouting of the lawful requirement, an eight-hour drive to get chocolate bars frankly just reflects your overall attitude to the lockdown. Yet that was a time when the vast majority of New Zealanders had complied with the lockdown, bringing with it for many significant adverse consequences both emotionally and finally. But complying, Mr Harris, in an effort collectively to fight the spread of the disease, an effort that was largely successful.

[6] Throughout this time and in respect of you also, the police took a commendable approach to engage, communicate, educate and encourage and they engaged with you on no less than four occasions, clearly warning you in an effort to educate you but again, you blatantly ignored the warnings and frankly your behaviour is reflective of what comes through as a substantial degree of entitlement when it comes to complying

with lawful directions. You have a long history of offending, of dishonesty of drug abuse and non-compliance. You certainly do not seem to have been deterred by any sentence imposed.

[7] Your lawyer has argued strenuously that I sentence you today to come up if called upon or to a sentence of community work. I have here a letter from a Ms Khan who says that she is now in a relationship with you and asks the Court to sentence you to home detention or a sentence short of imprisonment so that you can get the rehabilitation she says you appear to need.

[8] I have however had regard to the Court's approach to sentencing for others who breached the lockdown. It carries a maximum of six months. You were not in mandatory isolation, were you in mandatory isolation the starting point would have been six months. In my view, this was level 3, an appropriate starting point consistent with other decisions of the Court is one of three months' imprisonment. There is no uplift in my view appropriate. You have no similar offending. These circumstances were to some extent unique but equally, there are no matters of mitigation. There is no probation report. I do not accept that you are in any way remorseful and you have continued to conduct yourself in a manner that reinforces the Court's view that you seem to think that you are above the law Mr Harris.

[9] You did plead guilty. You would be entitled to credit for that. In the circumstances I reach an end point sentence of two months and one-week imprisonment. In my view, that is the sentence that is least restrictive in the circumstances. A term of imprisonment has been inevitable for almost everybody who has breached the level 4 and level 3 lockdown. The purpose is to denounce your conduct and to deter you and others and the sentence I impose is simply consistent with the Court's approach throughout this year.

[10] In respect of this charge, Mr Harris, convicted therefore and sentenced to serve two months and one-week imprisonment. On the other charges you are on bail. The next available date is 18 January. Bail to continue on those matters 18 January at 10 am and that is for plea. So bail on those matters Mr Harris, although you may still be in custody. I will note that an order to produce will be necessary. As I said, on the

other matter sentenced now to two months one-week imprisonment. Thank you, you may stand down.

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Judge E M Aitken  
District Court Judge

Date of authentication: 14/03/2021

In an electronic form, authenticated pursuant to Rule 2.2(2)(b) Criminal Procedure Rules 2012.