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**IN THE YOUTH COURT
AT MANUKAU**

**CRI-2016-292-000107
[2016] NZYC 142**

NEW ZEALAND POLICE
Prosecutor

v

T C
Young Person

Hearing: 14 March 2016

Appearances: Sergeant R Spendelow for the Prosecutor
K Leys for the Young Person

Judgment: 14 March 2016

NOTES OF JUDGE F J EIVERS ON BAIL APPLICATION

[1] T C, you appear before me today in respect of a bail application.

[2] You are represented by Ms Leys as duty solicitor, Sergeant Spendelow is here for the police and you are represented and supported by your family today being your mum, Nana, your step dad and brother: I welcome your family.

[3] T C, you are facing a number of charges; a charge of trespass alleged to have occurred on 3 March 2016, a charge of theft from New World Papakura alleged to have occurred on 3 March 2016, a charge of intentional damage of hair products alleged to have occurred on 3 March 2016, a charge of trespass alleged to have occurred on 3 March 2016, a charge of aggravated robbery alleged to have occurred on 3 March 2016 and a charge of theft of items from Z Kingsway alleged to have occurred on 4 March 2016 and theft of a hand bag alleged to have occurred on 4 March 2016. All of these charges arise from the Papakura area.

[4] The most serious charge is the aggravated robbery and that is the most serious charge T C because it has a maximum penalty of 14 years' imprisonment, whereas the other charges have maximum penalties of three months' imprisonment, so you can see that there is quite a big difference in the type of offending.

[5] I understand that a bail application was made on your behalf on Saturday before the Community Magistrates. That was declined. I do not have the benefit of that decision, but Ms Leys has advanced a further bail application on your behalf today based on the fact that there has now been the opportunity to view video evidence in relation to the lead charge of aggravated robbery. In relation to that charge, you have entered "denied" which means that you are defending that matter and it will go back to the Papakura Court for a case review hearing and all other charges will follow that charge so that they stay together.

[6] Ms Leys on your behalf addresses a number of matters raised in the bail opposition, being this blue document here which sets out why the Police oppose bail for you today. One of the matters that she talks about is that you are transient, meaning you are moving all around the place and not necessarily staying at home.

[7] Your family do not agree with that statement, although they acknowledge that you are often not at home, you are either staying at friends or at somebody else's place and they are not particularly happy about that, but they are aware that you are out in other people's homes. She points to the fact that you just turned 14 on 2 March 2016, so only just 14, very young, and that prior to this arrest your family report you had been very good with your bail conditions and had been abiding by them. Your family want you home and they are here in full support today. They will set things up at home so that a very careful watch is kept of you. Ms Leys points to the fact that the lead charge of aggravated robbery is denied.

[8] The sergeant opposes bail on behalf of the police. He says that there is no change of circumstances. The summary of alleged facts points to serious offending and I do not think anyone would dispute that. In the summary of facts it states that the taxi driver, took you and your friends to a destination and you were paying him when the assault occurred on him. Further it states that when he ran off, you ran chasing him. The facts about this offending and whether or not you played any part in it will be something that the Courts have to look at in a hearing and that is not a matter that I can determine today, however, clearly you were there and your associates were with you at the back of the van. The issue is going to be at the hearing whether or not there was any knowledge about the attack on the taxi driver.

[9] There are also the theft charges which occurred around about the same time, the shoplifting and there does seem to be, on the face of it, a pattern of offending; young people, perhaps a gang, travelling together committing offences and there is a real issue of public safety.

[10] What I am saying here T C is that this is serious offending. This is a first appearance that is acknowledged and it is the early stages of process and investigation by the Police. There are co-offenders. Evidence is still being put together and there is property outstanding.

[11] Although the Sergeant acknowledges there is going to be a point where bail will be granted to you, he does not consider it should be granted today. He considers that because of the seriousness of the alleged offending and the problems that there

have been with controlling you in your home environment that there should be a supported bail, possibly electronic bail. He considers that there is a risk of further offending and also a risk of absconding, and considers that you should remain in custody for the time being. There should be an FGC held to talk about your bail conditions, where you should live, what should be the rules around your bail.

[12] I have considered the points made by both Ms Leys and the Sergeant and I am not going to grant you bail today T C on the basis that this is serious offending. Further you have not been at your course and you have not been at home. Your parents are doing their best to try and keep an eye on you but you are not listening. There are serious issues of public safety, in my view, when there is alleged offending of aggravated robbery. More care and more thought needs to be put into what your bail conditions should be. On that basis and it is not possible, in my view, for bail to be granted today. I agree with the Sergeant. I consider there is a risk of further offending, there is a risk of absconding and more thought needs to be put into what your bail would be so bail is denied today.

[13] I will remand you under s 238(1)(d) through to 22 March 2016 at 4.30 pm. A custody FGC is directed. It may not be able to be heard before that time, but in any event, you need to come back to Court on that day because of the denied charge and further inquiries can be made in the meantime.

F J Eivers
Youth Court Judge