

**IN THE DISTRICT COURT  
AT AUCKLAND**

**CRI-2014-004-013209  
[2016] NZDC 3799**

**THE QUEEN**

v

**CRYSTAL DANIELLE BRADY-TRAINOR**

Hearing: 7 March 2016  
Appearances: H Steele for the Crown  
E Burton for the Defendant  
Judgment: 7 March 2016

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**DECISION OF JUDGE E M THOMAS: SECTION 106 DISCHARGE**

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- A. Discharged without conviction.**
  - B. Ordered to pay \$700 compensation.**
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## REASONS

### **The offending**

[1] Ms Brady-Trainor you have pleaded guilty to one charge of receiving and one of theft.

[2] The facts that are agreed between you and the Crown are these. You, after a difficult period, found yourself one morning walking the streets after having spent the night at an Otara address. You were hung over and had taken your antidepressant medication. You encountered a female. You asked her for a cigarette. She talked you into joining her and another man, whom you know as Adam, in a vehicle. You decided to do that. The vehicle had been stolen. The back quarter window had been smashed. The ignition had been pulled. The driver, Adam, deposited the female at an address. He then drove with you to Cash Converters. At Cash Converters you went inside. You took three jackets off the rack and you left the store. You returned to the vehicle with the three jackets. You then went to another location where Adam got out of the car and, during the course of what he was doing at another vehicle, he was disturbed. That left you alone in the vehicle with the jackets. You drove the vehicle away. You were stopped by police.

[3] On its face your story may not seem a particularly plausible one. The police would have encountered you in a stolen vehicle with stolen jackets. CCTV footage and other evidence would have confirmed that you were the person who had gone alone into Cash Converters. That you would not have raised any sort of alarm. You would have simply uplifted the jackets and left without paying for them.

[4] However, you have filed an affidavit in support of your application for a discharge without conviction which sets out the background to this offending as you claim it. The Crown accepts all of that. It has done what it can to satisfy itself of what you claim in your affidavit. It accepts that it cannot argue with any of that.

## **Gravity**

[5] Receiving carries a significant maximum penalty but this was receiving at the low end of the scale. Based on what the Crown accepts, your involvement in it was passing. Ultimately the financial loss to the owner is significant but it was covered by insurance. And, as part of the exercise today, I will be ordering that you repay him a significant portion of the loss that remains. All of the jackets were recovered and Cash Converters has suffered no loss. So the offending in that sense is not serious.

[6] You have pleaded guilty early. You have acknowledged your guilt early. You have co-operated with the police. All of that greatly reduces your culpability.

[7] The very significant aspects of all of this are the matters that you raise in your affidavit. I need not go through those now but these are accepted. I, like the Crown, agree that they greatly reduce your culpability. The comments that this person Adam made in the car following on from the traumatic events that you suffered so soon beforehand must have been quite terrifying. I have no hesitation at all in finding that the gravity of the offending is at the lowest end because of what you had endured in the time leading up to this particular day.

## **Consequences**

[8] The next step is to look at the direct and indirect consequences of a conviction. Here these are convictions for dishonesty. They will affect your ability to convince prospective employers that you should be hired. Parliament intended that those who commit dishonesty offences have that to deal with and have that to live with. But that does not mean that in appropriate circumstances that is an unfair price to pay. That it is out of all proportion to the gravity of the offending.

**Result**

[9] I am satisfied that it is out of all proportion to the gravity of the offending. I am prepared to grant your application and I do so upon you paying compensation to the owner of the vehicle of \$700.

E M Thomas  
District Court Judge