

**IN THE DISTRICT COURT  
AT CHRISTCHURCH**

**CRI-2015-009-011853  
THREE STRIKES WARNING  
[2016] NZDC 3828**

**NEW ZEALAND POLICE**  
Prosecutor

v

**AARON GROUBE**  
Defendant

Hearing: 9 March 2016  
Appearances: Sergeant G Wilson for the Prosecutor  
A James for the Defendant  
Judgment: 9 March 2016

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**NOTES OF JUDGE J J D STRETTELL ON SENTENCING**

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[1] Mr Groube, you are aged 26. You now face two charges, one of burglary which you are liable to 10 years' imprisonment and one charge of robbery which you are liable to 10 years' imprisonment. These offences took place on 7 and 14 December respectively.

[2] Significantly, the robbery took place on the day that you were remanded on bail for the burglary charge on your personal appearance and it also, as your counsel has put before the Court properly, took place whilst you were under a sentence of the Court of intensive supervision for a previous burglary and, of course, those are aggravating features.

[3] The facts of the matter are that in respect to the burglary you were one of said four people who were involved in a burglary. The burglary took place during the day. You simply found a house that was vacant. You went in there and searched the inside of the address and removed a large amount of personal property including cameras, computer equipment and a silver bowl which was subsequently found in your possession.

[4] In respect to the robbery which happened on 14 December and significantly happened almost immediately after your release on bail from the Court, you were in Durham Street. You followed your victim who was a young German tourist for two blocks, you then approached her at an intersection, walking up fast behind her, grabbed the back of her arm with your right hand and, as it said in the summary, stomped on her foot and then used your left hand to grab the victim's handbag. Obviously, stamping on the foot was intended to cause the victim to react to that pain and release her grip on the handbag. She struggled with you, you pushed her, that struggle took only a few seconds and when you pushed her it caused the bag strap to break and caused her to lose her grip and she fell to the ground and you kicked her in the leg before running away where you were followed by others and apprehended by members of the public.

[5] The victim in this matter did not sustain any significant injuries although emotionally and psychologically there would have been impact, and as she says in her victim impact report, she was frightened at the start of a holiday that this should happen to her in New Zealand and that she was then scared to walk around the streets in New Zealand and not surprisingly that this happened to her in the broad daylight.

[6] Your comments in the Court summary were that you thought the handbag looked expensive and that there may have been money in it. It is not disputed and your counsel rightly acknowledges that at the time this happened you were heavily involved with drugs and was drug dependent. You were also homeless and reading from the probation report, it is apparent that your drug dependency was out of control. You in fact have said to him, as I have read the restorative justice

conference, you noted that you had committed the burglary seven days beforehand to fund money to pay rent and to meet your \$200 a day synthetic addiction.

[7] Your lifestyle at that stage was as much about feeding your serious and financially significant drug addiction as it was to provide for the day-to-day needs that you had for food and board and it caused you to act in a desperate and seriously criminal and violent way, as I have outlined.

[8] You have a limited previous history although relevant is, of course, your burglary in 2015 in which you were sentenced in a rather rehabilitative fashion to intensive supervision for one year with special conditions. I have no doubt that that was imposed in order to address the issue that you still now face and that was the one of a drug dependency.

[9] It is significant that, having been given that opportunity, your response to the probation was poor and indeed it seems you did not complete the programmes. Your counsel, Mr James, rightly says that you do not have a significant history in total. You have completed some drug intervention in prison and you willingly involved yourself in a restorative justice conference which I thought seemed to have gone relatively well and perhaps from the point of view of the victims of the burglary, they may feel a certain degree of assurance from it and perhaps see a different side to you.

[10] The difficulty that the Court faces is whether you feel remorse and empathy or not. The report clearly indicates that, in the view of the probation officer, you do not. On the other hand, at least in the restorative justice conference there are elements of you acknowledging the hurt and the consequences for the victims of the burglary.

[11] There is no doubt that you remain, at this stage, at a serious risk of further offending because drug dependency is far from appropriately treated by that treatment that you have undertaken to date. It is only the tip of the iceberg. It is acknowledged both by yourself in your letter to me and by counsel that no community-based sentence is available nor could it be appropriate having regard to

the seriousness of the offending. From a legal perspective both these offences have a maximum sentence of 10 years' imprisonment.

[12] The guiding precedence for cases in regard to this relating to the robbery is *R v Mako* although I immediately acknowledge that that is a charge of aggravated robbery whereas this is not but a number of cases in sentencing have at least considered *R v Mako* [2013] NZHC 2314 6 September 2013 as a starting point. Woodhouse, J in *Stewart v Police* [2012] NZHC 1538 26 June 2012, in particular, has considered that and taken into account the various criteria to set a starting point for offending in respect to this matter.

[13] The starting point, as I see it for this, is one of two years for the robbery. That is based on a number of factors, firstly, that this was more than simply a bag snatching. There was violence, aggression and force used against the complainant which certainly caused her some difficulties and, therefore, in my view, it places it at a stage where there has been a use of actual physical enforcement in order to obtain the bag. From that starting point, I impose an uplift of three months to reflect the aggravating features. In this case, they are the fact that you were under sentence of the Court for intensive supervision and that you had upon that very day been bailed on a charge of burglary, less than an hour beforehand.

[14] The burglary is, in my view, a standalone offence. It was a serious residential burglary. You openly participated with others and retained property from the burglary. You have a very recent previous burglary that has to be taken into account but on the other side taking into account the totality principle, an additional six months' imprisonment should be imposed at least as a starting point. That then leaves the Court in a situation where for the robbery there is a sentence of two years, three months and for the burglary, six months. From that I then discount this for your early guilty pleas and I allow you some discount for the remorse as expressed both in your restorative justice conference and in the letter you have sent to the tourist which I will have sent on and reduce that by eight months to have an end sentence of two years, one month. That I will impose in respect to the robbery, and the burglary, because of the manner in which I have imposed the sentence, will be a

concurrent sentence of six months' imprisonment although in truth it has a standalone sentence that I have referred to.

[15] Accordingly, in respect to the robbery, you are sentenced to two years and one month imprisonment. In respect to the burglary, you are convicted and sentenced to six months' imprisonment concurrent.

[16] In respect to the robbery, Mr Groube, it is a first strike warning. Should you be charged with a further serious offence then you are liable to complete without any discount, the sentence imposed. You will be provided with a written advice as to the first strike warning that I have now given to you.

J J D Strettell  
District Court Judge