

**IN THE DISTRICT COURT
AT AUCKLAND**

**CRI-2013-004-011741
[2016] NZDC 4706**

NEW ZEALAND POLICE
Prosecutor

v

AARYN PAENGA
Defendant

Hearing: 18 March 2016
Appearances: Mr Sweetman for the Prosecutor
Mr Silich for the Defendant
Judgment: 18 March 2016

NOTES OF JUDGE L TREMEWAN ON SENTENCING

[1] Aaryn Paenga you are for sentence, having just graduated from the Alcohol and Other Drug Treatment Court, Te Whare Whakapiki Wairua.

[2] This is an enormous achievement for which you are entitled to receive significant credit.

[3] You face seven charges relating to offending which occurred on different dates in 2013 until early 2014. The lead charges are two charges of burglary. The burglary was of a backpackers' hostel where you entered at night with your co-offender, taking some property of a backpacker while he was sleeping. He then awoke and confronted you, and recovered his property from you. However it is clear from the file that the experience was distressing for him, and he felt threatened and

shocked. The other burglary was of a secure storage locker where you took several suitcases containing the victim's property.

[4] There are also two charges of breaching Intensive Supervision, and a breach of community work, a charge of driving while forbidden and giving false information.

[5] When you entered this Court Judge Aitken noted the file that a sentence of around two years' imprisonment would have been warranted on these charges. However due to the credits you have earned, a sentence which leaves you in the community is available today, on a principled basis.

[6] I now turn to outline your many achievements since you entered the Court.

[7] You spent many months altogether, in Wings accommodation and you are particularly grateful for the part that Wings has played in your recovery, and doubtless the relationships you have made with others in recovery, many of whom were also at Wings. Walking the journey with others has been important to you and we have seen that.

[8] You entered the Higher Ground programme and although you did not graduate from that programme you spent more than two months there, and made gains, before going on to complete the two month Salvation Army Bridge programme.

[9] You have also completed the CADS Getting Started programme.

[10] You spent five months at Te Whare Pūrea, the Court's own tenancy. Thus since being in the Court you have spent very lengthy periods of time in sober and suitable accommodation, while working hard on your issues.

[11] These days you live in your own private rental accommodation and are proud of the way you manage your affairs there, paying your bills and dealing with life on life's terms. Everything in your flat is paid for. All of this is a great achievement and a sign of just how far you have come – when you entered the Court you

explained you didn't even have an address as such. Life then was more about survival.

[12] You have been regularly tested for alcohol and other drug use while in the Court. You earned all of the medals which the Court presents, including a twelve month medal. As at today you have 18 months and 14 days of sobriety - a tremendous achievement.

[13] You know that you must remain vigilant. We note your comments to the Probation Officer Mr Elliott that if you were to use, you'll next be homeless, unemployed, and as you put it, living on a piece of cardboard in a shop entrance.

[14] Aaryn you are a worthy man who has displayed such dignity in this Court. Despite the challenges which have come your way, sometimes from 'left field', you have remained steadfast and built a solid foundation for your life going forward.

[15] A plank of this solid foundation is with the 12 Step fellowship. We have cards showing attendance at over 220 meetings. As noted, you have a great many recovery friends and a 'tight 3' and you have a sponsor. It has been a healthy sign, in our eyes, that you have the support from some of our graduates who we know are travelling well – and to think that these are your friends and supports in the community. Likewise we know that you provide support for others.

[16] In the Court you also undertook and completed counselling with Man Alive as well as with another private counselling agency.

[17] You worked on Moral Reconciliation Therapy (MRT) to step nine which is a significant achievement.

[18] A restorative justice conference was held while you were in the Court. Although none of the victims canvassed wanted to meet with you, a panel hearing was held instead. The report states that the panellists accepted your verbal apology as genuine and sincere. You spoke of your sense of shame and guilt and then explained the steps you were taking to deal with your addiction.

[19] In the Court you also worked intensively with your case managers Natalie and also Rob, and worked with your peer support Elton.

[20] Like most of our participants, your health has significantly improved while you have been in the Court. You say it is better than it has ever been. In fact these days you appear as a picture of good health, and present differently from previous times!

[21] You are also a highly skilled and competent man. Some may not know this about you but you also wrote a children's book which was distributed to children in hospital. We gather that you have other ideas of further creative endeavours you would like to pursue. We would like to think that in future you may have opportunities to do this - you have considerable talent and potential.

[22] I read a letter on file which you wrote a long time back. It may have even been written when you were in custody waiting to see what would happen with your case. You said "I know I'm a better man than this and capable of achieving my goals and ambitions". You referred to being at a crossroads and that you were ready to be focused, and motivated to go to treatment and work hard and put the effort in to have a life you could be proud of. You have done what you said you would and you are now the better man you deserve to be.

[23] We also acknowledge today the support you have from your partner Josephine, who is here today. Your relationship has strengthened greatly while you have been in the Court also assisted by counselling which you had arranged. You set a good example to others Aaryn. This is also a good indication of your sincerity and commitment to your new life and those relationships which are important to you.

[24] As a way of giving back to the community, you also undertook over 253 hours of voluntary community work with St Vincent de Paul. You liked doing this work. I recall one time when I suggested to you that perhaps you had better cut back on your community work and focus on other matters you made it clear to me that you wanted to keep doing this work though it would not be at the expense of anything else you should be doing. This work, and the relationships you had forged

at St Vinnies have been very important to you and you also liked giving back, and we respect this. In fact we have heard that you are continuing on with your voluntary work there and also now have paid casual work for them too. Well done.

[25] You have also been working for a company which deals with shipping containers, carrying out difficult decontamination work.

[26] We know as well that you offered some support to the Clothing Angels which they appreciated.

[27] It is noted that you also have your driver's licence.

[28] Your presentence report prepared by Mr Elliott our AODT Court Probation Officer is a very positive one. You explained to him that being in the Court has given you your life back. Mr Elliott noted that since being in the Court you have not been charged with any further offending, and he notes how far you have come.

[29] The report recommends a sentence of Intensive Supervision which I now impose, for a term of 12 months on the recommended conditions, with Judicial Monitoring. I request the first report in four weeks (by 15 April) with the follow up reports every three months for the duration of the sentence.

[30] On the charges of driving while forbidden and giving false information, which are fineable only, you will be convicted and discharged.

[31] I will now invite you to take a seat while I deal with the other graduate from today, David Schelvis, before I then later make some comments to you both.

[32] It seems fitting to us that the two of you are graduating from this Court at the same time, having come into the Court at around the same time almost two years ago. You have each come from difficult circumstances and had so many challenges. It is fitting that Judge Aitken is present today having been the Judge who oversaw the initial phases of your time in the Court. Like me, she is delighted to be a part of this milestone event today.

[33] We know that being in this Court is not easy. It takes courage and commitment to make the necessary changes. It is important that you do not see this as the end of the road, but just the beginning of the next phase of your journey. We know that your goal for the future is to maintain abstinence and live crime-free as a productive member of the community.

[34] You have both made such enormous and positive changes in your lives over the past two years. We are pleased to have been a part of your journey and proud of your progress. Ensure that you give yourselves credit for how far you have come. Believe in yourselves. As we know however, today is a special day but also just another day in recovery. You never graduate from your addiction. Be honest with yourselves, keep it simple, do the suggested things and stay connected.

[35] We look forward to seeing you and any of your whanau at 'He Takitini' this coming Monday, the 21 March at the Mt Eden Salvation Army, and we also hope that you stay in touch with us.

[36] On behalf of the Court, and all the judges but particularly Judge Aitken, I now close by warmly congratulating you both.

[37] I now pass the rakau to our Pou Oranga Matua Ra, to farewell you both from the Court.

L Tremewan
District Court Judge