

**IN THE DISTRICT COURT
AT PALMERSTON NORTH**

**CRI-2015-054-003270
[2016] NZDC 4949
THREE STRIKES WARNING**

NEW ZEALAND POLICE
Prosecutor

v

HEMI SCOTT DAVIDSON
Defendant

Hearing: 21 March 2016
Appearances: Sergeant S Oram for the Prosecutor
M Anderson for the Defendant
Judgment: 21 March 2016

NOTES OF JUDGE J D LARGE ON SENTENCING

[1] Hemi Davidson appears today for sentence on two charges of male assaults female, the first on 20 November 2015, the second on 26 December 2015; both on the same victim.

[2] The first in time, 20 November, being the more serious of the two in that there was strangulation by the defendant putting his hands around her neck causing her to have difficulty breathing. Also, she had red marks to her neck and left shoulder subsequently to that assault.

[3] On 26 December, while on bail for that first charge he again assaulted the same victim by punching her with a closed fist twice to the left side of her head and then once to the forehead. That caused the victim to fall into a bush. He then pulled

her up and dragged her across the road by pulling her hair. She, on that occasion, suffered a sore face, had abrasion and bruising to the right eye and a small scratch on her neck.

[4] That is serious offending Mr Davidson and I note that you have pleaded guilty at a reasonably early opportunity despite a not guilty plea being entered on 8 December. That clearly did not go very far. That was vacated on 28 January when you clearly accepted your responsibility. The second charge you pleaded guilty immediately so I take that into account.

[5] This morning I gave you a sentencing indication of 18 months' imprisonment and I explained to you the way I got to that point. I do not repeat that now. That can be included in my sentencing notes and made available to any authority who wishes to peruse it at some later date.

[6] In respect of that charge, the robbery, you are convicted and sentenced to 18 months' imprisonment as indicated and also ordered to pay reparation of \$400 and the special conditions, release conditions are as contained in paragraph 1 and 2 of the pre-sentence report made available for the purposes of the male assault female charge.

[7] I am putting that to one side at the moment because I want to deal with the sentence in respect of the two male assault female charges.

[8] I indicated to you this morning that what I would be doing is sentencing you on both matters and as separate events, not doing a totality at the initial stage anyway.

[9] I have approached it this way. I sentence you as indicated and now sentence you to 18 months' imprisonment on the robbery charge and in respect of the two male assault female charges, I intend to deal with the totality principle by reducing the amount of imprisonment I intend to impose in respect of each of those two.

[10] The first charge in my mind, the strangulation one is very serious and warrants a deterrence sentence, also a sentence to hold you accountable. My starting point was 18 months' imprisonment.

[11] Then the aggravating features in respect of the other charges that you were on bail for the first charge when you assaulted the second time, so really it got worse for you and on that I decided there should be a starting point of nine months. That gave me a starting point of some 27 months.

[12] I looked at that, I took into account your early guilty pleas and having regard to the sentence I have imposed on the robbery charge as well, what I have done is decided that you should be sentenced to 12 months' imprisonment on the first of the male assault female, effectively coming back from 18 months reducing that by six months in totality and also you should be sentenced to six months' imprisonment on the second assault charge. It is certainly not as serious but it is still serious and warrants imprisonment. Those two sentences I am going to impose concurrently, that is with each other.

[13] The maximum on those two is 12 months' imprisonment but that sentence is cumulative on the 18 months so essentially you have got a total of two and a half years' imprisonment today because you have the 12 months and six months running together being 12 months, plus you have the 18 months on the robbery charge. Do you understand that?

[14] Mr Davidson, given your conviction for the robbery, you are now subject to the three strikes law. I am now going to give you a warning of the consequences of another serious violence conviction. You will also be given a written notice outlining these consequences which lists the serious violence offences and what offences fall into that category.

[15] Firstly, if you are convicted of any serious violent offence other than murder committed after this warning and if a Judge imposes a sentence of imprisonment then you will serve that sentence without parole or early release. If you are convicted of murder after this warning then you must be sentenced to life

imprisonment. That will be served without parole unless it would be manifestly unjust. In that event the Judge must sentence you to a minimum term of imprisonment. I note in the file that you have been given the first strike warning.

[16] Community work and supervision are cancelled.

J D Large
District Court Judge