

**IN THE DISTRICT COURT
AT AUCKLAND**

**CRI-2015-004-008539
[2016] NZDC 4623**

THE QUEEN

v

DOMINIC ROYSTEN DAVIES

Hearing: 18 March 2016
Appearances: H Taufele for the Crown
D Dickinson for the Defendant
Judgment: 18 March 2016

NOTES OF JUDGE N R DAWSON ON SENTENCING

[1] Mr Davies, you appear in Court today for sentencing on a charge of aggravated robbery. That is a serious offence. It carries a maximum sentence of 14 years' imprisonment. You also appear for sentence on a charge of possession of cannabis which has a maximum sentence of three months' imprisonment.

[2] At about 8.35 pm on 4 August 2015 you entered a dairy in Symonds Street in Auckland City. You were wearing a disguise consisting of a *V for Vendetta* style mask covering your face, a hooded jacket covering your head and a pair of gloves. You also had a meat cleaver which you had in your pocket. You entered the counter area and demanded cash and cigarettes and when the shopkeeper refused you produced the meat cleaver and repeated your demands. Fearful for his safety, the shopkeeper gave you a packet of Benson & Hedges cigarettes and \$60 in cash. You then walked from the shop.

[3] On 21 August 2015 a search warrant was executed at your address and the police located the meat cleaver, the mask and clothing worn by you during the robbery. A small amount of cannabis was also located.

[4] The complainant was left traumatised by the incident but he did not suffer any injuries as a result.

[5] I note that you have 13 previous convictions for dishonesty, seven breach convictions, four for drugs and seven others. I have read the pre-sentence report, the victim impact statement, your letter to the Court and also the letter providing some medical evidence of anxiety and depression that you appear to suffer from. I have also heard the submissions from Mr Dickinson, your present counsel, and read the submissions of your previous counsel.

[6] In sentencing you I need to hold you accountable for the harm you caused to the victim. You seem to be a young man who would appreciate, from your letter, that this was a particularly scary episode for the person in the shop. You may well not have intended to inflict any harm upon him but he had no way of knowing that.

[7] This type of robbery of dairies simply cannot be allowed to happen without serious sentences being passed because it happens far too often and dairy owners are far too often seen as easy marks by people who want to rob. People in our community, including dairy owners, are entitled to be protected by the law from this type of offending.

[8] There are aggravating factors to your offending. The first is the threatened use of a weapon which is a meat cleaver; a particularly dangerous weapon. The victim was vulnerable in that he was faced by you holding this dangerous weapon.

[9] There is some level of premeditation involved in your offending in that you were disguised and you had a meat cleaver in your possession when you went into that shop.

[10] Finally, the number of your previous convictions is also relevant although I note that nothing of the seriousness of aggravated robbery has appeared in your list up until now.

[11] In mitigation, you entered a guilty plea at an early stage and you are entitled to a 25 percent discount. You have also expressed your remorse for your offending and you have written a letter which I have read which, frankly, I find impressive. You have not pretended to try and excuse yourself. You have taken responsibility for what you did and you have shown some insight into the effect your offending would have had on the victim. That is significant because a lot of people who offend in this way do not appreciate that. The fact that you can appreciate it means that you can take hold of your issue and do something about it.

[12] I also take into account that you have been diagnosed with anxiety and depression issues and need medication for that.

[13] The case of *R v Mako* [2000] 2 NZLR 170 (CA) is quite clear for this type of offending. Four years' imprisonment must be the starting point. Given you have no offending of a similar seriousness, I am not going to impose any uplift. You are entitled to a 25 percent discount for your guilty plea which takes 12 months off your sentence. You have also exhibited remorse and taken some courses and I am satisfied that your remorse is sincere and for the remorse and courses I am deducting a further four months.

[14] Your mental health issues do need to be considered and for those I deduct a further four months so on the charge of aggravated robbery you are convicted and sentenced to two years and four months in prison.

[15] On the charge of possession of cannabis you are sentenced to one month in prison. That is to be served concurrently so it is two years and four months for both.

[16] The record shows that you have already been given a first strike warning and you tell me that you have been served with the letter for that.

[17] You have to go to prison today. You are already in prison and you have been waiting for sentencing, but you strike me as a young man who, with the right help, can get your life in order and not keep coming back to Court. I encourage you to do that because if you do not, at the end of the day you are the person that suffers for that. No one else does. I hope we do not see you back here.

N R Dawson
District Court Judge