

**IN THE DISTRICT COURT
AT AUCKLAND**

**CRI-2014-004-011986
THREE STRIKES WARNING
[2016] NZDC 3798**

**THE QUEEN
NEW ZEALAND POLICE**

v

WEN-HAO LIANG

Hearing: 4 March 2016

Appearances: T Bellingham for the Crown
M Sweetman for the Prosecutor New Zealand Police
N Cooke for the Defendant

Judgment: 4 March 2016

NOTES OF JUDGE N R DAWSON ON SENTENCING

[1] Mr Liang, you appear in Court today for sentencing. There are now five groups of charges I need to consider when I sentence you today:

- (a) The first group is a charge of aggravated robbery and the unlawful taking of a motor vehicle.
- (b) The second group is a charge of kidnapping and a charge of male assaults female.
- (c) The third is a charge of indecently assaulting a female.
- (d) The fourth is unlawfully taking a motor vehicle, burglary and two charges of theft.

(e) And fifthly, I now have before me a charge of intentionally damaging an electronically-monitored bail bracelet.

[2] I note you are 25 years of age and you have no previous convictions. The facts of the offending are that the complainant, Mr Zhehao Zang, had sold a motor vehicle in a private sale to an associate of yours. On 15 September 2014, your associate and yourself contacted the complainant and asked to meet him to discuss the issues your associate was having with the vehicle.

[3] You met and your associate confronted the complainant and accused him of selling him a faulty motor vehicle. After a short-heated argument, you and the associate cornered the complainant up against the wall and stood in front of him. Your associate demanded the complainant pay him \$12,000 for the repairs to the vehicle or he would chop his head off.

[4] The complainant panicked and showed your associate his online bank account on his mobile phone advising him that he did not have sufficient money to pay immediately. Your associate then demanded that the complainant hand over the keys to his own vehicle and his mobile phone but he did not comply with these demands. You pulled out a 10 centimetre thin blade, black handle, steak knife and held it against the complainant's throat.

[5] The complainant was frightened and handed over his vehicle keys and two mobile phones to your associate. They had a total value of \$1500. While he held the knife to the complainant's throat, your associate told the complainant to only contact him when he had the \$12, 000 cash to pay him back. At that time, he would return the vehicle to him. Your associate handed the vehicle keys to you and your associate left the scene in his vehicle and you drove away in the complainant's vehicle. The vehicle was later located outside your address.

[6] On Thursday 21 November 2014, a person parked his motor vehicle on a road in Mt Albert. At some stage, you had taken a set of house and car keys from the victim after he had left them on his table at the address. The victim was unaware the keys had been stolen. You located the victim's vehicle and used the stolen keys to

take that vehicle. You also obtained some documentation in the victim's vehicle indicating the victim's address. At about 12.50 pm, you went to that address and entered the premises using the stolen house key.

[7] The victim returned to his home address and noticed the front door of the house opened. The victim located and apprehended you. You had in your possession the victim's car keys that had been missing from the previous day, and there was an iPad and cellphone. Subsequent to the arrest, a search of you was undertaken and a wallet belonging to a second victim was found.

[8] At 8.00 pm on 10 November 2014, you were at the Event Cinema in Queen Street Auckland. The victim of this offence was also there and you and she are not known to each other. She was in the cinema waiting for the movie to start and you approached her and asked what time the movie started. She told you it began at 9.00 pm. The victim went into the movie at 9.00 pm and after a few minutes you came into the theatre and sat next to her.

[9] The following day, on 11 November, the victim and the second victim were in Queen Street in Auckland. You approached the first victim and grabbed her by one elbow tightly and asked her out for lunch. She said she did not want to go with you and she and the other person walked away.

[10] The two victims went to the Mid-City complex in Queen Street and you followed them inside. You approached the second victim and grabbed her by the hand. You said to her "You are so beautiful. What is your name?" She replied, "I don't know you." Both victims walked up an escalator inside the Mid-City complex into the Queen Street markets. They continued up three escalators to the top floor and you continued to follow them.

[11] Both victims went into the female toilets on the top floor and you followed them inside. The second victim called a friend of hers, who was nearby, for help. You pushed the first victim against the wall in the bathroom, held her there and kissed her on the left side of her cheek. She pushed you off and yelled at you to leave them alone and go away and shouted that it was a girls-only toilet. Both

victims sought to hide in one of the booths and you attempted to climb over the top of the booth. You were unable to get over and yelled out “You have to come out.” You hit the door on the wall of the toilet a number of times trying to get inside. A friend of one of the victims arrived and you ran away.

[12] On 10 November, a victim was walking along Queen Street in Auckland when she was approached by you and asked for her phone number. You introduced yourself as Martin and you exchanged contact details using the WeChat social media messaging application. You exchanged messages through WeChat and arranged to meet up the following day.

[13] On 11 November at about 9.00 pm, you arrived at the victim’s home address. The victim got into your vehicle to talk with you and you drove off saying you had to go somewhere for a drink. The victim refused as she had classes the next day. You told her you were going to take her to your house. She protested and requested several times to be taken home.

[14] You started swearing at her in Cantonese and said “The only reason I picked you up was because I wanted to fuck you.” She said she did not want to do that and asked to be taken home. You punched her to the side of her head and continued to drive. The victim started to cry and panic and attempted to send a text message to a friend asking for help. When you saw this, you again punched the victim in the head.

[15] You asked the victim for her cellphone and, when she refused to do so you, again hit her in the head. You exited the motorway and had to slow down for a red light. As you slowed down, the victim tried to escape and you again punched her in the head. The victim did manage to get out of the car while it was stopped at traffic lights and ran across the road to a service station where staff assisted her. The victim had a sore head from the punches.

[16] On 9 October 2015, you intentionally damaged an electronically-monitored bail bracelet, the property of 3M Electronic Monitoring.

[17] I have read the pre-sentence report, your letter to the Court and I have seen the certificates of the courses that you have completed

[18] In sentencing you, the principle of sentencing factors are those of deterrence and protection of the community. In particular, a young woman should be able to go about her business without being predated upon by young men such as yourself. Also, denounce your behaviour because it is totally and utterly unacceptable. The sentence needs to be imposed to hold you accountable for your behaviour.

[19] There are a number of aggravating factors I need to take into account:

- (a) The first is the threatened use of a steak knife as a weapon which you held to the throat of one of your victims. It is a particularly dangerous thing to do with a very dangerous weapon.
- (b) A number of punches to the head are also involved in your assault against the victim of the male assaults female charge. An assault to the head is also particularly dangerous as it can result in permanent damage.
- (c) There is the extent of the loss of \$1500 on the lost iPhones. On the charge of aggravated robbery, there were also two of you offending against one victim which left him very vulnerable.

[20] Your pre-meditation is at a medium level. On each of the offences, you had the option to stop but you did not.

[21] In mitigation, you entered a guilty plea at a time that would allow a 30 percent discount. You have also had your issues of mental health which I need to take into account. You are also a person previously of good character in that you have no other convictions on your record.

[22] The Probation report notes that you attribute your mental health issues to your offending. You told the probation officer you think it is the mental health that caused the misbehaviour and did not express remorse during the interview. The key

factors identified as contributing to your offending are your propensity for violence, your offending-related sexual arousal, attitude and entitlements. You are assessed as posing a medium likelihood of re-offending and a high risk of harm to others.

[23] At the sentence indication hearing, I indicated that, after taking into account the submissions made by the Crown and your counsel and a consideration of the *R v Mako* [2000] 2 NZLR 170 (CA) case, the lead offence of aggravated robbery a starting point of three years' imprisonment would be appropriate. For all the concurrent offending, a two-year uplift would be imposed, taking it to five years.

[24] A guilty plea reduces that by 12 months. Taking into account the psychological report, the remorse you are now expressing and the difficulties you would have in prison as a foreign language speaker, a further three months will be deducted.

[25] For the charge of aggravated robbery, you are therefore sentenced to a term of imprisonment of two years and nine months.

[26] For the unlawfully taking a motor vehicle, you are sentenced to six months' imprisonment to be served concurrently.

[27] For the charge of kidnapping, you are sentenced to two years' imprisonment to be served concurrently.

[28] For the charge of male assaults female, to be sentenced to one year imprisonment to be served concurrently.

[29] For the charge of indecent assault, you are sentenced to two years' imprisonment to be served concurrently.

[30] The second charge of unlawfully taking a motor vehicle, you will be sentenced to six months' imprisonment to be served concurrently.

[31] On the charge of burglary, you will be sentenced to one year to be served concurrently.

[32] On the charges of theft, you are sentenced to one month imprisonment on each, to be served concurrently.

[33] For the charge of intentional damage to an EM bracelet, you are sentenced to one month imprisonment to be served concurrently.

[34] I note that you have already been given a First Strike Warning.

N R Dawson
District Court Judge