

**IN THE DISTRICT COURT
AT AUCKLAND**

**CRI-2016-004-009511
[2017] NZDC 23907**

THE QUEEN

v

TEOKOTAI KAITAPERE

Hearing: 20 October 2017
Appearances: H Reid for the Crown
G Newell for the Defendant
Judgment: 20 October 2017

NOTES OF JUDGE N R DAWSON ON SENTENCING

[1] Mr Kaitapere, you appear in Court today for sentencing on charges of aggravated robbery, kidnapping, two charges of robbery and finally, a charge of receiving.

[2] At about 11.00 pm on 8 September 2016, the first complainant was sitting in his vehicle near St Luke's. While texting a friend, a vehicle pulled into the carpark beside him containing you and an associate. You got out of the vehicle and pulled open the complainant's driver's door and demanded he handed over his car key and mobile phone. The complainant refused to hand over the key, a scuffle ensued and you punched him twice to the head and then the throat. During the scuffle, he dropped his mobile phone in the passenger floor well and you ran around the vehicle, removed it and left in the vehicle you had arrived in.

[3] At about 1.00 am on 9 September 2016, the second complainant went to the Mount Albert shops driving his vehicle. He parked his vehicle at the Mount Albert tennis club and walked to a restaurant. He realised it was closed so he went back to his car and got in. In the carpark you were sitting in another vehicle with an unknown associate. As the complainant was about to leave, he realised you had approached the vehicle and were holding his driver door open. You demanded the keys to his car and when he refused, you grabbed him by the collar and demanded money. You threatened to take the vehicle and knock him. You forced the complainant to walk to a nearby ATM where you made him withdraw \$50 which he handed over to you. You then returned with the complainant to his vehicle, getting into the passenger's seat. You made the complainant drive to another ATM in the Mount Albert shops and forced him to withdraw \$400 from his credit account which he gave to you and then you walked off.

[4] At around 10.45 pm on 11 September 2016, the third complainant was at the carpark at the Mount Albert Tennis Club. You were also in the carpark. The complainant was sitting in his vehicle when you opened the front passenger door and entered the vehicle. You demanded money from him and punched him twice to the head with a closed fist. You took \$100 in cash and the complainant's iPhone 6 before telling him to drive to an ATM machine. The complainant drove his vehicle down New North Road towards Pak n Save Mount Albert and upon approaching Pak n Save, he deliberately accelerated and crashed the vehicle into a raised traffic island causing substantial damage to the vehicle. You directed the complainant to park in the Pak n Save carpark where you made him walk to a vehicle nearby where you had associates waiting. You got into that vehicle next to the complainant and drove to an ANZ ATM in Mount Albert and you demanded, from the complainant, his EFTPOS card and PIN number which he handed over. You went to an ATM where you withdrew the maximum amount of \$100 from the account. You then dropped the complainant on Hendon Avenue where he walked back to his vehicle and called the police.

[5] On 14 September 2016, another complainant was on Dominion Road and approximately at 10.15 pm, he walked to his Toyota minivan. As he got into his car, persons unknown parked a white coloured van behind him. An unknown person got into his vehicle and took from him his cellphone, a Samsung Galaxy, before leaving

with his associates. At 10.25 pm on 14 September 2016, you sent a text to an unknown person seeking to sell the Samsung Galaxy cellphone.

[6] I note that you are 24 years of age. You have four dishonesty convictions and five others. The dishonesty convictions are for getting into vehicles unlawfully and were six years ago. I have read the pre-sentence report. I have read four victim impact statements that have been provided to the Court and I have read your letters handed up to me to read today. I have also read and heard submissions from the Crown and your counsel. When I sentence you, I need to impose a sentence that holds you accountable for the harm to the victims of your offending. Principally, I need to denounce your conduct, in other words, tell you it is not acceptable to the community. None of us should behave this way. Also, there is a need for deterrence, in other words, the sentence needs to be imposed to get the message home to you and anyone else that might consider offending in this way, that there are consequences if you offend in this way that are not going to be pleasant to persuade you not to offend in this way. You offended against a number of people in the community and the community is entitled to be protected from your offending.

[7] The aggravating factors are the violence to the head of the victim involving punches. There is also the extent of the loss for each of the victims and there is an indication of hostility to the victims of your offending due to their race. It appears to be a pattern of spree offending against victims of Asian ethnicity all in the course of one week. There is some premeditation involved and it was ongoing offending of a similar nature over a relatively short period of time. Finally, your previous convictions are also an aggravating factor.

[8] In mitigation, you entered a guilty plea on a Friday morning before the trial was due to start the following week and that entitles you to a 10 percent discount. You have expressed remorse through your counsel in your letter that you have written to the Court. The letter, I have to say, does you credit because you have not only expressed remorse for your offending but you have shown some insight into your offending. You have not sought to blame anybody else for it. You have taken it on the chin and said you did. You accept responsibility for it.

[9] The probation report notes that you say you believe your use of drugs over a four year period has contributed to your offending and the drug that you have been using is methamphetamine. This type of offending seems a classic type of offending for someone using methamphetamine. You further stated you were glad you had been caught as you were unsure as to what was going to happen next and you have used your time on remand to reflect and sort things out in your head and you are now feeling good about yourself. In the report writer's assessment, your self-report with respect to your drug use has been underreported as the drug and alcohol assessment completed by correctional staff placed you at a higher risk of continued use without interventions. You are assessed at a medium risk of re-offending and medium risk of harm. The sentence recommendation is imprisonment. I note that you have also spent 10 months on electronically-monitored bail. One month of that you were able to work and you also had one breach of that bail during that course of time.

[10] I have considered the case of *R v Mako*¹ which is the lead case for this type of offending and I have also noted the submissions of the Crown and your counsel. In my view, the appropriate starting point is, for the lead offences of aggravated robbery and kidnapping, of five and a half years' imprisonment. The other concurrent offending would uplift that by one year to six and half years. For your remorse, I would deduct three months and your guilty pleas, eight months. I also then deduct a further four months for the restricted bail that you are on which reduces it to five years and three months' imprisonment.

[11] For the charges of aggravated robbery and kidnapping, you are sentenced to five years and three months' imprisonment to be served concurrently. On both charges of robbery and receiving, you are sentenced to two years' imprisonment also to be served concurrently. You therefore have a total of five years and three months to serve.

N R Dawson
District Court Judge

¹ *R v Mako* [2000] 2 NZLR 170 (CA)