

EDITORIAL NOTE: CHANGES MADE TO THIS JUDGMENT APPEAR IN [SQUARE BRACKETS].

This judgment cannot be republished without permission of the Court. Publication of this judgment on the Youth Court website is NOT permission to publish or report. See: Districtcourts.govt.nz

NOTE: NO PUBLICATION OF A REPORT OF THIS PROCEEDING IS PERMITTED UNDER S 438 OF THE ORANGA TAMARIKI ACT 1989, EXCEPT WITH THE LEAVE OF THE COURT THAT HEARD THE PROCEEDINGS, AND WITH THE EXCEPTION OF PUBLICATIONS OF A BONA FIDE PROFESSIONAL OR TECHNICAL NATURE THAT DO NOT INCLUDE THE NAME(S) OR IDENTIFYING PARTICULARS OF ANY CHILD OR YOUNG PERSON, OR THE PARENTS OR GUARDIANS OR ANY PERSON HAVING THE CARE OF THE CHILD OR YOUNG PERSON, OR THE SCHOOL THAT THE CHILD OR YOUNG PERSON WAS OR IS ATTENDING. SEE

<http://www.legislation.govt.nz/act/public/1989/0024/latest/DLM155054.html>

**IN THE YOUTH COURT
AT WHANGANUI**

**I TE KŌTI TAIOHI
KI WHANGANUI**

**CRI-2018-254-000089
[2019] NZYC 19**

NEW ZEALAND POLICE
Prosecutor

v

[RS]
Young Person

Hearing: 16 January 2019

Appearances: H C Mallalieu for the Crown
Senior Constable P Gray for the New Zealand Police
R Simon for the Young Person
T Green as lay advocate
J Marwick – Social Worker

Judgment: 16 January 2019

ORAL JUDGMENT OF JUDGE G P BARKLE

[1] [RS], you are here to be sentenced for two matters. One is a charge of aggravated robbery and the second one, of common assault.

[2] As I have already explained to you, I have before me – in terms of deciding what to do – some submissions from the Crown, who took over responsibility for prosecuting the aggravated robbery, a summary of facts about that offence and also what happened with the common assault out here in the foyer of the Court in November 2018. I have got two reports from Mr Marwick; one a social work report and one a plan relating to the sentence and I have also got the outcome from the family group conference that was held. I have a report from Ms Green that is very helpful, about you and your whānau. I have on the file and I have read, the psychological report as well. I have statements from the victims also. As you have seen today, I have heard from Ms Simon on your behalf, talked to your mum and dad, [GS], your partner, and also you.

[3] So I have tried to get as much information as I can, both about what happened with the aggravated robbery and the assault and about you.

[4] Now, the aggravated robbery took place in Palmerston North in [date deleted] last year. You were with two others, at least, and turned up at an address of some students and forced your way in. Two of your group had weapons and the young men that were in the flat were threatened, laid down, assaulted and their property taken. The value of the property was thousands of dollars and in addition there was quite an effect on each of the young guys in the house.

[5] I know at the family group conference that the fathers of three of the victims were present and told you about the impact of what took place. I have also seen what are termed victim impact reports and I hope Ms Simon has shown you those.

[6] That is what I know about the robbery and then there is the assault that took place out here in the foyer of the Court where you hit another young man a number of times.

[7] At the family group conference it was discussed what should happen. The report that I have back from the family group conference tells me who was there and that everybody had a say about what should happen. The agreement was that the sentence should be a period of time in residence at [location deleted] and then some supervision.

[8] I have also read from Ms Green's report that your mum and dad perhaps do not feel like they had a lot of say in that. However, Ms Simon tells me today that having talked to you and your family, that they understand and you understand why the outcome was agreed to and that it is a sentence that you now want to get on with so that you can put this process behind you.

[9] One thing I am worried about is that while you have said to the Court and it is recorded that you admitted what took place, you are still saying you did not do it. ["Nah I did it"] So you did do it. Well I am not sure if anyone else has heard that before today but that is a big step if it is meant. I am pleased to hear you tell me that because you have perhaps taken the first step forward in manning up to your responsibilities. I hope that you really mean what you say [RS].

[10] It will be easier to deal with the sentence and also what Mr Marwick is saying about what the supervision is going to be you now saying, "I did this, I want to put it right."

[11] I also understand that you had a tough time when you were a child and growing up and you are still young. You did not have an easy time. You learnt things that should never have happened. This is your last chance to learn some better stuff. Because you are 18 in [date deleted] next year. That means, [RS], that you will not be in the Youth Court after that day and you will be dealt with in the District Court if you break the law after that date. Mr Mallalieu has told me that if I was sentencing you in the District Court you would be going to prison for around six or seven years. So that tells you how serious this aggravated robbery was.

[12] Please, take the opportunity of the help that you are going to be given with providing you some skills in terms of work, hopefully some stuff around alcohol and

drugs, and understanding behaviour. When you get out there will be some more supervision. I want this to be your last time in a Court and as I said to you before, you have got a young child arriving in [date deleted]. The best thing you can do for your child is to follow the rules at residence so that you can get out in May and then you and [GS] need to set an example for your child to make sure he or she does not end up in this place.

[13] There is a thing called the Oranga Tamariki Act 1989 (“the Act”). It tells me what I have got to do when I sentence someone your age. I just need to make sure the tape records that I have had a look at the Act and what it says about what I have to consider when I sentence you. It is agreed by everyone that I do not need to send you to the District Court to be sentenced. I accept and agree that you can be sentenced in this Court unlike your co-offenders, although they are probably older. Also, I must impose the least restrictive outcome as your sentence. I have decided that is supervision with residence.

[14] So the order is under s 283(n) of the Act placing you in the custody of the Chief Executive for six months from today at the [location deleted] Youth Justice residence. That will then be followed by a supervision order under s 283(k) where you will be under the supervision of the Chief Executive through until you are aged 18 – which is on [date deleted] 2020.

[15] Now Mr Marwick has given me a plan which I assume you have seen and Ms Simon will have talked to you about. There is, as I have numbered them, seven conditions or objectives in that plan. Those are part of your sentence.

[16] The early release hearing, which is one that looks at how you have done at the youth Justice residence, will be in this Court on 8 May 2019 and the date which I understand you could be released from is 16 May 2019. On 8 May 2019, the terms of the supervision order going forward will be able to be discussed and be put in place and also the issue of reparation can be finalised also.

Judge G P Barkle
District Court Judge

Date of authentication: 25/01/2019
In an electronic form, authenticated pursuant to Rule 2.2(2)(b) Criminal Procedure Rules 2012.