

NOTE: NO PUBLICATION OF THIS PROCEEDING IS PERMITTED UNDER S 438 OF THE CHILDREN, YOUNG PERSONS, AND THEIR FAMILIES 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.

**IN THE YOUTH COURT
AT WHANGAREI**

**CRI-2015-227-000003
CRI-2016-292-000051
[2016] NZYC 149**

NEW ZEALAND POLICE
Prosecutor

v

E M
Young Person

Hearing: 16 March 2016

Appearances: Snr Constable R Cameron for the Prosecutor
C Cull for the Young Person

Judgment: 16 March 2016

NOTES OF JUDGE S M R LINDSAY ON BAIL APPLICATION

[1] E today you appear in the Youth Court in Whangarei but there is another aspect of these proceedings which is also a review of your care and protection proceedings so although I sit today in the Youth Court and also the Family Court there is a strong sense about your hearing of an SOS, Save Our Soul, and in this case yours E.

[2] You have been at the Youth Justice Facility and the submission of Ms Cull on your behalf is that that is really to try and meet care and protection needs as opposed to grounds that would best support your continued status under a s 239 remand in Youth Justice residence. I hear the submission of counsel.

[3] Recently a family group conference was held and the outcome of the FGC was to make various recommendations to the Court. Those recommendations include the possibility of you being granted bail and to reside with your great aunt and uncle, Mr and Mrs T who are present today in Court. They have had some experience, I hear, about looking after babies but if I was to grant bail and allow you to go home with them this would be their first placement of a young person, and T, there have been a lot of concerns around your behaviours. Initially your offending was seen as fairly low level but with the overlay or twist that you had a tendency to abscond and by absconding you placed yourself in peril.

[4] I have heard a submission that in relation to the charging document 0001 that today a plea of not denied can be entered to this charge but with an explanation and one which is accepted by the police, that in a sense it was a technical breach and happened in the context of having left Court and been led to believe a placement was available for you that after waiting some five or so hours at the offices of Child, Youth and Family you voted with your feet. However, more recently there has been offending whilst you were AWOL and it involved violence. This is serious. It is real and of concern.

[5] The police have made a submission today questioning whether the Court should accept and adopt the plan arrived at at the family group conference. The basis of the police opposition really sits squarely on a recommendation made by Dr Hinemoa Elder and that recommendation was:

Serious consideration to be given to the option of E residing in a secure care and protection residence for a period of at least six months for E to receive appropriate trauma based therapy as well as alcohol and other drug counselling and to become accustomed to a routine and educational opportunities and learning about problem solving/decision making. I am aware that Whakatakapokai may have a dialectical behavioural therapy programme which would be particularly helpful for E at this time.

The fact of the matter remains there is no such placement available for you, E.

[6] When I stand back and look at that recommendation, but also what is available to yourself, the whanau and within this region there is another submission made by police about the proposed return home, if I call it that, to Mr and Mrs T which is that the police are anxious that if you return to your home region that some of the disruptive and unhelpful influences within the area may bring pressure to bear or influence poor decision making on your part.

[7] The position of the police is that they are anxious that you not fall back into the same cycle. These are submissions made by the police, I accept, with care and out of concern. While you may be more accustomed to the police being the long arm of the law but in this case they are taking far more of a concern of being proactive around your care and protection concerns because they understand and accept it has been an aspect, or critical to, your offending.

[8] However, I have the conundrum that there is no such placement as Dr Hinemoa Elder may have anticipated. But I also pause because I genuinely believe in the importance of whanau, of governance by whanau of their tamariki, of whanau being able to guide, mentor and best love and care for their own so although there are risks within your community there are also great strengths in your community and Mrs T made the point to you that this is about you E and it will come down to the decisions you make on the day for good decisions that you can feel good about and proud about.

[9] You have an opportunity here with Mr and Mrs T to be local, to live local, to be within the world of your whanau and to be guided, loved and nurtured. It is not just that there is no other opportunity available in terms of a residential placement but I think I owe it to you and your whanau to give this the best possible chance so I

am prepared to grant bail today and for you to reside with Mr and Mrs T but I am going to hear further around those bail conditions. It seems a curfew will be essential.

[10] The conditions bail conditions will be:

- (a) You are to reside at [address deleted].
- (b) There will be a curfew from 6.00 pm to 7.00 am seven days a week and you are are not to leave [address deleted] unless in the company of Mr and Mrs T, W P, Ms K, Te Kotahi Taton Staff or a social worker from Child, Youth and Family or NISS.

[11] The plan is adopted and will be in place for six months. There will be a review date on 24 June 2016 at 10.00 am

[12] A social work plan and report should be filed in 21 days, to come before me on 13 April 2016 at 2.15 pm.

[13] The restraining order against Mr W shall issue.

[14] E, go well, listen to Mr and Mrs T. Keep up the good work.

S M R Lindsay
Youth Court Judge