

**IN THE DISTRICT COURT
AT DUNEDIN**

**CRI-2015-012-000764
[2016] NZDC 17791**

THE QUEEN

v

NIKOLAS JAMES POSA DELEGAT

Hearing: 12 September 2016
Appearances: R Bates for the Crown
M Ryan for the Defendant
Judgment: 12 September 2016

NOTES OF JUDGE K J PHILLIPS ON SENTENCING

[1] Mr Delegat, in looking at the matters and considering the issues, not only of a s 106 but also the very objective submissions put to me here by the Crown in relation to penalty and Mr Bates' open stance on the end result, albeit there is a starting point of imprisonment for this level of violence, I consider that you, at 18, have taken steps to rehabilitate. I do not need to be starting to look at issues relating to supervision. You are well able to and you come from a sufficiently disciplined background to enable the issues you have to be confronted, treated and assessed; I am not going to do that. There are people who do not have the opportunities that are available to you that need the help from the services that are stretched to the utmost trying to provide them. I am not going to put you on supervision.

[2] The issue is do I give you community detention? I understand (and I could have this totally wrong though) that you intend to leave Otago, which has this drinking culture, and do your studies in either Auckland or Waikato. That is

a decision for you but that causes difficulties about community detention and having any ability to control or have input into how you are going with treatment programmes and plan. Somewhat against what I would normally do in the circumstances that confront me here, I am going to deal with you by the imposition of community work. It will be a large amount of community work but I temper that also with making a large emotional harm reparation payment to Ms Kane (Policewoman Kane) because I consider that you can spend your summer working to get the emotional harm reparation together so that she has some refund of the emotional trauma and the rocky road she has been through over the past 18 months.

[3] On the charge of assault with intent to obstruct, you are sentenced to 300 hours' community work. You will pay emotional harm reparation of \$5000. You will pay that by 31 December this year.

[4] On the charge of assaulting Mr Ogilvie, Mr Ogilvie is a very honest man. He said in his victim impact statement that he had not suffered emotional trauma. I cannot award him emotional harm reparation. You are sentenced to 100 hours' community work to be done concurrently.

[5] On the intentional damage, you have paid the reparation I am told. You are sentenced to 60 hours' community work; to be dealt with concurrently.

[6] On the resisting Constable Early, you are sentenced to 60 hours' community work; to be served concurrently.

K J Phillips
District Court Judge