

EDITORIAL NOTE: NAMES AND/OR DETAILS IN THIS JUDGMENT HAVE BEEN ANONYMISED.

**IN THE DISTRICT COURT
AT WELLINGTON**

**CRI-2015-035-000768
[2016] NZDC 15226**

THE QUEEN

v

JOHN RICHTER

Hearing: 5 August 2016
Appearances: A McCubbin-Howell for the Crown
B Crowley for the Defendant
Judgment: 5 August 2016

NOTES OF JUDGE S M HARROP ON SENTENCING

[1] Mr Richter, on 4 July I gave you a sentence indication on the morning of your trial, which you accepted, of a sentence of two years and eight months' imprisonment on eight charges, and you then pleaded guilty to those and you were convicted immediately afterwards. I will of course keep my side of the bargain and apply that sentence as I indicated I would.

[2] The charges arose in the period 1 January 2014 to 5 August 2015. They are male assaults female which carries two years' imprisonment, injuring with intent to injure which carries five years' imprisonment, two charges of abducting a young person under 16, which carries seven years' imprisonment, two charges of assault with a weapon, which carry five years' imprisonment, assault on a child, carrying two years' imprisonment and attempting to pervert the course of justice, which carries seven years.

[3] Since 4 July when I somewhat unusually granted you bail pending sentence, you were found in breach of curfew and on 28 July Judge Grace remanded you in custody until today, so just over a week.

[4] Given what I said when granting you bail pending sentence, the circumstances of that breach will, no doubt, be a matter the Parole Board will take into account. It does not appear to have involved any allegation of any further offending of any kind, nor, importantly, of any attempt to contact the victims. As Mr Crowley has submitted, it plays no part in my sentencing today.

[5] Following the sentence indication hearing though I have received some further useful information. There is the pre-sentence report and victim impact statements from Phillip Sault, Edward Sault, Manuel Lores and Janis Cridge who is Manuel Lores' caregiver. These supplement the victim impact statement that I had at the sentence indication hearing from Ms Sault.

[6] I have also received brief updated submissions from the Crown in writing, which confirm that a protection order is sought in respect of Tania Sault, which if granted would serve to protect her sons Edward and Phillip.

[7] My sentence indication was reasonably detailed and I do not propose to repeat all that I said there. That judgment should be read alongside this decision, and that is particularly so because I see no reason not to apply the indicated sentence of two years and eight months' imprisonment. However, I do want to say a few things additional to the points made in the sentence indication.

[8] The recent victim impact statements, which I understand you have not had a chance to read as yet, emphasise the serious mental or psychological consequences that your offending has had on the young boys, especially Manuel, who is still only 10 years old. It is clear that these consequences will continue on some level probably for the rest of their lives. That information arguably suggests that the indicated sentence is a lenient one. Had I had these victim impact statements at the sentence indication I may have indicated a somewhat longer sentence. They certainly reinforce the justification for a protection order.

[9] I know that Mr Crowley will go through these with you after the sentencing, but I want to summarise some of the main points that I take out of the statements recently filed.

[10] Manuel says that you freaked him out and you hit him: “When he hits me it makes me feel like I want to protect myself but I can’t. I can’t do anything because he’s an adult, he’s too big. It makes me feel sad. When he hits me I feel sore and sad and it makes me cry. He frightened me a lot of times. He was really scary and he would tell me, “I’m going to punch you.” It’s hard for me to think, he makes me so frightened.”

[11] He describes you as a really angry person and that you would get angry and hurt him for no reason. He did not do anything to deserve it and he just does not know why you are like that. He is worried that you will kidnap him again if you get the chance.

[12] It is distressing to read what his caregiver Janis Cridge says about him. Manuel has been with her now for just over a year. When he arrived he was soiling himself three or four times a day, he was just so scared because of the stress. He was jumpy, extremely responsive to any sort of noise, he had plans in place for what to do if you were to come to his home to get him, where he would run and hide. He would only sleep with his light on and a TV on in his room to give him some noise and he is simply absolutely terrified of you and he remains hypervigilant.

[13] She says it has taken nine months for Manuel to stop soiling himself. You may have had no concept of the impact you were leaving on him, but that is the effect your conduct has had. He has improved considerably since being away from you. He is a completely different child at school according to his teachers, but Ms Cridge says she thinks he is going to need serious therapy at some stage to get over what you have done to him. You need to know, she says, the hurt and damage you have inflicted on a small child. You have planted fear in a young child who should not know what fear is.

The other two boys, Edward and Phillip, make comments about your anger and your ill treatment of them mentally as well as physically. One of them says that he thinks you are mental and aggressive and simply not somebody that it is safe to be around.

So you need to reflect on the significant and long-lasting impact that you have had on those young people's lives.

[14] The pre-sentence report does not provide much extra assistance in the present context. There are some release conditions suggested but because the sentence exceeds two years these are matters for the Parole Board, not for me.

[15] I think the nature of your offending does indicate that you yourself have some anger management and/or mental health issues of some kind. Your attitude to women and children, your unpredictability, your angry treatment of victims apparently without provocation needs addressing, otherwise there is an obvious risk to any future partner you may have, and to any children she may have or you may have together. No doubt this is an issue which the Parole Board will be considering and it may see fit to seek a psychological report.

[16] I impose the following sentences. On the injuring with intent to injure charge a sentence of two years and eight months' imprisonment. On the two abduction charges 18 months' imprisonment and on each of the five remaining charges 12 months' imprisonment, but all those sentences are concurrent, so the total is two years and eight months' imprisonment.

[17] Finally, part of the indication I gave was that I would make a protection order in favour of Tania Sault, which would have the effect of protecting not only her but also her sons Edward and Phillip. The statutory criteria in the Sentencing Act 2002 are clearly satisfied, based on your offending against her. You do not suggest through counsel that the order should not be made and she requests that one be made.

[18] I therefore make a protection order in favour of Tania Sault. I am required to direct you to attend a specified programme unless there is a good reason not to; here there is a good reason because you are going to be in custody and so any such programme should obviously be deferred until you are released. No doubt the Parole Board will include that as part of the release conditions.

S M Harrop
District Court Judge