

**IN THE DISTRICT COURT
AT CHRISTCHURCH**

**CRI-2016-009-009283
[2017] NZDC 3456**

NEW ZEALAND POLICE
Prosecutor

v

ZANE MICHAEL GRAY
Defendant

Hearing: 20 February 2017
Appearances: Sergeant M Phillips for the Prosecutor
A McCormick for the Defendant
Judgment: 20 February 2017

NOTES OF JUDGE J A FARISH ON SENTENCING

[1] Mr Gray, when I remanded you in custody last year I told you very clearly that you were likely to face a reasonably lengthy term of imprisonment. That is because I need to not only sentence you in relation to the most recent matters but also re-sentence you in relation to the matters for which I gave you intensive supervision, community work and community detention and to say the least your attendance in relation to particularly the intensive supervision and community work has been abysmal.

[2] I need to sentence you today in relation to a driving whilst disqualified charge which is, I believe, your fourteenth charge of driving whilst disqualified. That is quite old now because I severed that off from the other two charges of driving whilst disqualified. That occurred on 15 September whilst you were on bail in relation to

the other matters. There is then a theft of a truck valued at around \$18,000. That offending pre-dates the offending for which I sentenced you last year.

[3] More recently though there is a breach of protection order in relation to your partner, your ex-partner, and also associated with that a charge of careless use of a motor vehicle. You are very lucky that that was downgraded to careless use given the summary that I have read. And then there are two breach of bail charges and also a breach of community detention. There are no charges in relation to breach of community work or intensive supervision but you are not opposed to the application for me to cancel that sentence of intensive supervision.

[4] I sentenced you last year on 5 May in relation to your twelfth and thirteenth charge of driving whilst disqualified and a charge of receiving and that backdated to 11 September 2015. I was due to sentence you and you had basically done a runner to try and get yourself sorted out, and I accept that, and at the time when I sentenced you it appeared that things were on track for you. I had some glowing references from Family Works Trust, your partner was very supportive, you had the two young children, and you were also caring for other relatives' children. You had stopped using methamphetamine and you were trying to get your life sorted out and you seemed to be in a very positive frame of mind and, as I said to you, I was doing everything to try and not send you to jail. So I severed off that fourteenth charge of driving whilst disqualified and I said that at the end of the community detention sentence if you could prove to me that you were engaging and willing to do everything that I wanted you to do then I would look at that in a similar light.

[5] Unfortunately you did not do that and I have read your letter. What strikes me about your letter is there is not one iota in that letter about applying yourself to the sentence that I imposed because I did not disqualify you; I imposed 250 hours of community work in lieu of the disqualification to allow you to keep working. You have done 22.5 hours of that community work sentence. I imposed the 18 months of intensive supervision to assist you to obtain the skills that would stop you from re-offending. You have done none of that. You have reported to Probation but it has been very superficial and in relation to your community detention sentence you have breached that because you put work above everything else. You just decided you

were going to get on with your life and whatever I had imposed by way of sentence you were not interested in it and then everything fell apart, as you said, and I accept that that most probably did put you into a very downward spiral. I know your partner was extremely supportive of you and you were trying to work hard to provide for her and your sons.

[6] I need to re-sentence you in relation to those two charges of driving whilst disqualified and receiving and when I gave you the sentence indication I told you how I had broken up the sentence and I ended up at just on 25 months' imprisonment but I discounted that down to get you within the 24 months so I did not have to send you to jail.

[7] In relation to those charges, I will stick to that original discussion which I had with you which was 24 months' imprisonment. I told you though that at the time that I sentenced you the reason why I severed off the other driving whilst disqualified charge was a decision of Dunningham J which said that cumulative sentences of imprisonment of 12 to 16 months are required in relation to repeat offenders, particularly driving whilst disqualified, particularly in your situation when that offending occurred whilst you were on bail.

[8] In relation to the fourteenth charge of driving whilst disqualified I would add on 15 months. In relation to the theft of the truck and the breach of a protection order I would add on another six months and I would have to add onto that the fact that for some of that you were subject to a sentence of intensive supervision and also the breach of community detention comes into that six months. When I add that all up and I give you credit for your guilty pleas, I give you 20 percent credit off that, that came to just on four years' imprisonment.

[9] Now in my view that would be manifestly excessive. That would not be appropriate. What I have done is gone back and looked at everything as a whole based on the 24 months I first indicated to you last year. The theft of the truck occurred prior to that sentencing, so did the driving whilst disqualified. The breach of the protection order is your first breach of that order and it was not as serious as they can be. The careless use is not imprisonable but was a serious careless use in

relation to what occurred with your partner and your son. The breach of community detention is serious.

[10] What I have done is in relation to the original 24 months I have added on another eight months for that offending. So you are at two years eight months' imprisonment. I have disqualified you though for 12 months and one day which I have to because I am imposing a custodial sentence in relation to the driving whilst disqualified. I have imposed the reparation of \$6300 to be repaid to the owner of the truck and I expect upon your release that you will be in employment and you will make good your obligations to her in relation to repaying for the motor vehicle. I cannot undo the order that I made in relation to the community work so I have disqualified you anyway. It does not matter whether I disqualify you on one charge or three charges. I have cancelled the community work sentence because there is no point in you doing that and I have also cancelled the sentence of intensive supervision.

[11] You have got 24 months' imprisonment on the originating two charges of driving whilst disqualified and receiving and I have added on, as I said, another eight months' imprisonment for the fourteenth charge of driving whilst disqualified, the theft charge and also the breach of community detention and the breach of a protection order.

[12] In relation to the other charges, the careless use and the breach of bail, you are simply convicted and discharged.

J A Farish
District Court Judge