

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

**IN THE DISTRICT COURT  
AT HAWERA**

**CRI-2016-021-000907  
CRI-2017-021-000239  
[2017] NZDC 6114**

**NEW ZEALAND POLICE**  
Prosecutor

v

**[TAUNUI HOHEPA]**  
Defendant

Hearing: 23 March 2017  
Appearances: Sergeant S Hickey for the Prosecutor  
A Vickers for the Defendant  
Judgment: 23 March 2017

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**NOTES OF JUDGE G P BARKLE ON SENTENCING**

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[1] [Mr Hohepa] you are now here for sentence in respect to nine charges in total. Just so it is clear to anyone reading these sentencing notes how matters have evolved I record the background. On 7 September 2016 you were charged with male assaults female and breach of protection order for which you entered guilty pleas on 24 January 2017 and were remanded for sentence until today with a pre-sentence report being called for.

[2] In the intervening period and just prior to today on 20 March 2017 there was another incident involving you and your partner who is also the mother of your child. That has resulted in you facing six further charges. Four of those are breaching a protection order, one of assault with intent to injure and one of wilful damage.

[3] Today you have entered guilty pleas to each of those charges and I convict you of each of those offences. Your counsel Ms Vickers has sought that you be sentenced today in respect of those charges also. The pre-sentence report while it does not cover that later offending has relevant and current information concerning you. I also have been able to receive, thanks to the efficient work of the police, a victim impact statement. That means in my view I am in a position now where I can sentence you on all matters that you are before the Court for at this time.

[4] Dealing with the first incident which took place on 7 September 2016. The protection order was issued by this Court on 23 May 2016. On 6 September 2016 you went to the home of the victim [location deleted]. She was not home but you climbed in a window at the address. When she did arrive home an argument developed. You punched her on the chin and began fighting with her. When she tried to leave the address you prevented that happening by wrapping your arms around her head and neck. She managed to escape and crawled to the sink in the kitchen where she picked up a knife. In defence of herself she used that knife by placing it into your chest cavity which resulted in your lung collapsing. You were flown to [location deleted] Hospital and underwent surgery which was successful.

[5] In respect of the incident on Monday this week, 20 March 2017 you were again at the victim's address at around 10.30 pm. That was despite bail conditions requiring you not to associate with the victim. You were asked to leave a number of times. You told the victim that you were not going anywhere. You have taken your young [child] and gone to a bedroom to sleep. The victim stayed in the lounge and slept on a mattress. The next morning at about 6.30 am she has awoken by you yelling. You have grabbed her from behind and have put pressure around her neck area and throat. She was unable to breathe through her mouth and also struggling to breathe through her nose. You continued to choke her for approximately one minute to the point where she thought she would black out. You finally let her go and then grabbed her cellphone causing the phone to crack. You have grabbed her by the clothing and dragged her to the bedroom. Because of your young [child] being woken you have let the victim go. She has gone to the bathroom/toilet area. You have followed her and then taken the SIM card from her phone and broken it in two. She has started screaming trying to get the neighbours attention. You have moved

from close by her and she has managed to lock the door. She remained in toilet area for some time until she was certain of you having left the address.

[6] At about 5.00 pm on that same day 21 March 2017 the victim was dropping a family member off on a street [location deleted]. You appeared out of nowhere and got into her car. You and her went to [location deleted]. While there an argument erupted and you threw your drink at the victim hitting her in the face. She reciprocated. She has then called the police. You were subsequently arrested and declined to make any statement.

[7] The victim impact statement from the young woman concerned says that in respect of the incident earlier this week that she just wanted you to leave her home but you refused. That it was really scary when the two of you argue. That you have been together since she was [age deleted] years old. The violence has calmed down she says but you still scare her when you get angry. She says "I just want him to get the help he needs."

[8] The pre-sentence report that was prepared in respect of the incident on 7 September 2016 advises that you have had a number of sentences for violence related matters including intensive supervision and also indeed of imprisonment. It says that you have very limited insight and understanding into your offending behaviour and that when this report was prepared on 10 March 2017 your responses indicated an ongoing sense of anger towards the victim. Sadly that was reflected in your actions that took place earlier this week it seems. Generally you minimised your offending and blamed her and overall did not accept responsibility or show remorse. The report went on to say that your risk of re-offending and risk of harm towards the victim was assessed as high and the conduct you have indulged in on Monday and Tuesday this week reflects that assessment was indeed correct. The report also states you have low motivation to deal with the factors that contribute to your offending.

[9] The report, where it was dealing with electronically monitoring considerations, noted that the police have attended a number of domestic violence related call outs during 2016 and the prior couple of years. Unsurprisingly the recommendation of the report is that a sentence of imprisonment be imposed.

[10] Ms Vickers who is your counsel has accepted that is the only realistic outcome for the Court bearing in mind the number of charges that you now face. In her submission an end point sentence of around 19 months imprisonment would be appropriate.

[11] I have regard to the purposes and principles of the Sentencing Act 2002. More particularly in your case I need to denounce your conduct and hold you accountable. I need to deter you and others from committing the same or similar offences. I have to provide for the interests of the victim. I also need to have regard to your rehabilitation and impose the least restrictive sentence appropriate in the circumstances.

[12] In deciding on an appropriate sentence I have had regard to the High Court decisions of Duffy J in *Hamilton v Police*<sup>1</sup> and Nation J in *Kumar v Police*.<sup>2</sup>

[13] In terms of the incident on 7 September 2016, the aggravating factors as I determine them are that you entered the home through a window prior to or when the victim was not present. That could well I would have thought occasioned a charge of burglary. In addition, there was physical violence and you prevented the victim from leaving. My start point for the breach of protection order charge would be nine months' imprisonment and then I would uplift that to take account of the assault charge by a further three months. That would mean a start point for that incident of 12 months. There would be an uplift for your prior offending of three months, which would mean 15 months imprisonment. I would then apply the credit for your guilty pleas in respect of both charges for an end sentence of 11 months' imprisonment in respect to the charges committed on 7 September 2016.

[14] Then when I come to deal with the incident earlier this week, the aggravating factors include first that there were effectively three incidents. First when you arrived at the house on the night of 20 March 2017 and your failure to leave when requested. Then the next morning when the argument developed you held the victim by the throat. That was for a prolonged period when she almost blacked out. You then broke her SIM card and attempted to ensure that she could not obtain help.

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<sup>1</sup> *Hamilton v Police* [2014] NZHC 2698

<sup>2</sup> *Kumar v Police* [2015] NZHC 1575

That incident went on for a reasonably prolonged period of time. There was then a third incident around 5.00 pm at [location deleted] later that day.

[15] My start point for that offending in respect of all six charges is one of 18 months' imprisonment. The uplift on that start point for your previous offending and also because the offending took place while you were on bail for the other matters, is one of four months. That brings the sentence to 22 months imprisonment. I then give you credit for your prompt guilty pleas which is five and a half months (25 percent) and reduces the sentence to 16 and a half months on those charges.

[16] In my view, the sentences should be cumulatively imposed. When I combine the two sentences the sentence is one of 27 and a half months' imprisonment. I stand back and give consideration to the question of totality and I adjust that end point to one of two years' imprisonment.

[17] The following periods of imprisonment will be attributed to each charge. Breach of protection order 7 September 2016, CRN 1258, 11 months' imprisonment. Being a male assaulted a female CRN 1193, 7 September, 11 months' imprisonment. The charge of with intent to injure assaulted the named victim committed on 20 March 2017, two years' imprisonment. Standard and special release conditions for six months following release on that sentence. On each of the four breaches of protection order charges relating to 20 and 21 March 2017, 18 months' imprisonment on each of those charges. On the charge of intentionally damaging a cellphone a sentence of one month's imprisonment. All periods of imprisonment are to be served concurrently. On the charge of breach of supervision, you are convicted and discharged. The present sentence of intensive supervision [Mr Hohepa] is now cancelled.

G P Barkle  
District Court Judge