

**IN THE DISTRICT COURT
AT HAMILTON**

**CRI-2017-019-000526
[2017] NZDC 6298**

NEW ZEALAND POLICE
Prosecutor

v

WILTON THOMAS BRIGGS
Defendant

Hearing: 24 March 2017
Appearances: Sergeant K Little for the Prosecutor
S Lawrey for the Defendant
Judgment: 24 March 2017

NOTES OF JUDGE M L S F BURNETT ON SENTENCING

[1] Mr Briggs, you are 37 years of age and you are here today for sentence, having earlier pleaded guilty and been convicted on one charge of burglary.

[2] The summary of facts shows in the early part of the evening you took a large rock and smashed through the door and window of a retail shop. It was a retail eyewear shop. You removed several racks, damaged several showcases and uplifted a large amount of branded eyewear, placing them into a bag. The total value of the eyewear that you stole was just under \$8000.

[3] Presumably, via CCTV, you were identified by police and you acknowledged that you were the offender. I am assuming that there was very little opportunity to deny it under the circumstances and as a result a number of items were able to be recovered.

[4] The outstanding reparation for the missing sunglasses and eyewear is \$5013.25 and also for the damage to the display cabinets. The large retail windows and doors that you smashed to gain entry, that reparation amount is of \$4680. There is a significant amount of reparation, there was also more than \$500 for a security guard who had to be employed to secure the building until repairs could be affected.

[5] Mr Lawrey says, on your behalf, there is no possibility of you meeting reparation. You have already got a significant amount of unpaid reparation from earlier burglaries, more than \$15,500 which there is no payment arrangement and you have never attempted to deal with that in any realistic way. Now you have simply added to that very large sum knowing that there is no ability for you to repay.

[6] The pre-sentence report is not a positive report. It refers to your number of earlier burglaries, it says 13 but in fact I counted 11 but there may be others that are relevant. Also other dishonesty charges and there does not seem to be any sign of you slowing down despite your advancing age.

[7] You were sentenced in 2014 for similar kinds of offences including burglary with a weapon and you had not long been released on those matters, you breached your release conditions. You were sentenced to a modest amount of community work in December 2016 and before that was able to even be commenced you commit this current burglary on 21 January 2017. You have simply resorted to your earlier offending pattern. Probation make an oral application to cancel this sentence of community work and defence concur.

[8] The assessment of your history of violent offending and your risk of harm to others is assessed as medium, that you are eligible for assessment and counselling dependent on your attitude and application. That this may mitigate ongoing risks that you represent to the community.

[9] You have eight breaches of release conditions, parole, home detention and District Court bail, and your ability to comply with a community-based sentence is of course low. Mr Lawrey asked me to record that your association with the Outcasts is a past association and that whilst you have a bipolar medical condition

which is referred to on page 2 of the report, you decide whether or not you are going to take your medication and you say that you were not taking your medication, and combined with alcohol, you simply resorted to your earlier type of offending.

[10] Whilst there is support available to you upon release, you are not willing to make a commitment about it according to the pre-sentence report and as a result you are no sooner back into the community than you are re-offending.

[11] Burglary carries a maximum penalty of 10 years' imprisonment. I have described the offending and the extent of the damage. You know perfectly well you are not able to meet any reparation and so the individual victim suffers the loss as well as the general community as a result.

[12] I do take a starting point of two years' imprisonment with an uplift of 10 months for your previous offending, your previous history, much of which relates to your current conduct. You do get a full discount for your early guilty plea which comes down to 25 and a half months' imprisonment.

[13] I am willing to take into account the fact that you do suffer from bipolar. Of course you decide whether or not you are going to comply with your treatment regime. You are provided with medication and you are provided with medical oversight, the fact that you decline to comply with it you have to accept is your decision at the end of the day, but I am willing to reduce that to two years' imprisonment as a total end sentence.

[14] Standard and specific release conditions are to apply for a term beyond your sentence expiry date and I think the maximum that can apply is six months. In my view it should include no alcohol and that you comply with your supervised medical regime. The application is granted to cancel your community work.

M L S F Burnett
District Court Judge