

**IN THE DISTRICT COURT  
AT WHANGAREI**

**CRI-2016-006-000253  
[2017] NZDC 6338**

**NEW ZEALAND POLICE**  
Prosecutor

v

**DAVID WILLIAM ATKINSON**  
Defendant

Hearing: 24 March 2017  
Appearances: A Alcock for the Prosecutor  
N Town for the Defendant  
Judgment: 24 March 2017

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**NOTES OF JUDGE R G RONAYNE ON SENTENCING**

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[1] Mr Atkinson, you are before me today for sentencing on a variety of charges. CR number ending 0060 is a charge commonly known as car conversion, that carries up to seven years' imprisonment. You were first before the Court on that charge on 10 February 2016, you pleaded guilty on 27 June.

[2] You came before me earlier this week and I stood the matter down to today so that you could provide some information about some fishing arrangements that you have, I will come back to that. Also on the same date, 10 February last year, you drove a car while disqualified.

[3] In relation to both of these charges, the guilty plea was entered on the June date I have mentioned. On 25 May 2015 in Dunedin, you were disqualified for a year and a half. On 10 February at 6.00 am, you were on a Cromwell road. You

located an insecure courier van parked on the side of the road, you got in the vehicle and you left the area, travelling out of Cromwell.

[4] There was a scanner used by the courier in the centre console. The vehicle was in due course recovered, the scanner was not located. You gave some sort of nonsense excuse to the police when you were stopped, that some unknown male had approached you, telling you to take the van and that it was okay.

[5] Already mention has been made of your age, anybody aged 62 who believed that would not be believed by anyone else, but in any event it was plainly nonsense because you pleaded guilty to those charges. Of real significance is that you were bailed on 10 February 2016 on those charges.

[6] On 28 February 2016, you committed two more offences. One was a drink-driving offence in the aggravated form which attracts a maximum term of two years' imprisonment. You initially pleaded not guilty to that charge and then guilty. At the same time you were driving while disqualified, also in the aggravated form, and you pleaded guilty eventually to that charge on that same day.

[7] It seems that at about quarter to four in the morning on 28 February you were seen driving in Blenheim, you were stopped because your headlights were not on in the hours of darkness. A reading of 462 micrograms of alcohol per litre of breath was obtained, your explanation was that it was a silly mistake.

[8] You failed to appear initially on those charges, a warrant to arrest was issued and executed on 18 March. You were bailed on 18 March. On 17 March 2016, you committed the offence of possessing cannabis for sale, which is of course a drug dealing offence. You pleaded guilty to that eventually on 27 June.

[9] On the same day, 17 March, you had in your possession a pipe for the purpose of smoking cannabis, you pleaded guilty to that charge as well, and on that date you also offered to sell cannabis to a person over the age of 18 years and you pleaded guilty to that charge.

[10] It seems that you had got into a conversation with a male in a bar that day, you asked the male if he wanted to buy some stuff. The male thought you were talking about drugs so he declined. The police were called, you were searched, a bag was located with 137 grams of cannabis leaf. Another cannabis was found and also 44 grams of damp cannabis was found in your possession along with the pipe. You denied trying to sell the cannabis. The drug dealing charges attract a maximum term of eight years' imprisonment.

[11] On 27 April you committed a theft and that came before the Court on a number of occasions and you eventually pleaded guilty to that also on 27 June, that attracts a maximum term of three months' imprisonment. You stole some items from [the victim] supermarket in Blenheim on that day, those included a 12 pack of beer and some ointment. You denied that offending when approached.

[12] You committed a theft sometime in May which attracts a maximum term of one year. It seems that in February 2016 you made unexpected contact with the victim of this offending, you then stayed at that person's property on two separate occasions over the next period of some weeks.

[13] On one day when the victim left for work in the morning, you were staying. You were left at the address and you went through the house removing numerous items of property. You took those items to your campsite where they were located.

[14] Then the last group of offences occurred on 14 September last year in Nelson in a public place, namely Bridge Street. You had in your possession a knife without any reasonable excuse, that attracts a maximum term of three months' imprisonment. You had cannabis in your possession which attracts the same maximum and you had possession of amphetamine, which is a Class A controlled drug which attracts a maximum term of six months.

[15] You claim that you were carrying the folding knife with an eight centimetre long blade because you are a fisherman, you could not offer any explanation as to why you were in possession of it outside the Court building. You claimed that the

amphetamine was prescribed medication, but you were unable to say what sort of medicine it had come from or who the doctor was.

[16] You have previous convictions, theft by a person in a special relationship in 2014 for which you were sentenced to community detention in 2015, you drove while disqualified in 2014 and you have three drink-driving convictions, one from 1982 and two from 2014.

[17] I have a report from the Nelson Marlborough District Health Board Addictions Service, it says that you reported to the writer of the report that you do not have any problems with substances and you do not require any help from the Addictions Service.

[18] You reported that over the past two months, prior to this report which is dated July last year, because of health issues you had not consumed more than three stubbies of beer in a session because your body could not handle it, but you do not drink every day.

[19] You said you had been smoking cannabis throughout your life apart from a period of 18 months in Australia. You said that you do not need cannabis and can go without it if you choose and you that you have never been concerned about your cannabis use.

[20] The report writer concludes by saying that you appear to be a man who is set in his ways and that you will do what you see fit. You said though that you would be willing to attend the Addictions Service if the Court mandated it. Put another way, you will do what you are forced to do.

[21] I have a pre-sentence report. When this report was written, you were denying possessing the knife in public or possessing any cannabis plant, you would not discuss those charges any further. The report writer says that despite your guilty plea to the other charges and your admission in relation to some of your actions that it was a stupid and childish thing to do, you justified this in a number of ways.

[22] For example, you stated that the police nailed you, that you do not smoke in front of people, that you were not selling cannabis but that you were trading it for something else and that desperate people do desperate things. You were assessed by the report writer as being at a risk of re-offending and risk of harm to others in the medium range, and that was based on your attitude, your offending history and the type of offending.

[23] Supervision was considered by the report writer, but given your attitude, being unmotivated to address your cannabis use and blaming mainly the police and your circumstances for the offending, a short term of imprisonment was recommended.

[24] You are said to be on a sickness benefit, you are said to have been smoking cannabis since you were a teenager. Interestingly and extremely concerningly, you indicated to the report writer that you smoke cannabis to remain alert, referring to an example when you were truck driving and you needed to smoke cannabis to keep you on the ball. That is indicative of your appalling and brazen attitude to your association with drugs.

[25] I suspect that everyone in this courtroom is rather chilled by that attitude that you think that smoking cannabis is a good way to remain chilled while you are driving a truck. You also went on to state that when you are angry you need a drink containing alcohol to calm you down. You said that you were heavily relying on substances to manage your moods and at the time of this report you refused to proceed with electronic monitoring enquiries.

[26] I asked for some more information about your work position earlier in the week and you have come along with documents that I am not particularly impressed with, I have to say. It seems that notwithstanding that you indicated through your counsel to the Court on Tuesday that you had quota, you do not in fact have quota, you will possibly have the opportunity to fish somebody else's quota. That may have simply been a breakdown in communication.

[27] You say you have bought a boat, it does not seem that that boat is one that will be used for fishing. Documentation regarding the purchase of that boat has been put before the Court. As far as I can tell from a bill of sale document which is before the Court which has a number of changes plainly made to it, you are contracted or possibly a company by the name of World of Horses Limited is contracted to purchase the boat, as far as I can tell, for \$135,000.

[28] It appears to me that the boat was to be sold to World of Horses Limited, and I cannot really tell, but I suspect your name has been added to this document. That said, the company World of Horses Limited appears to have been incorporated on 12 April last year after your offending commenced.

[29] There is also a document from what appears to be a [prospective employer ], that is dated tomorrow. That may be another error. It suggests that you will be employed by him from 26 March, that date appears to have been changed on the document, so although that may have been changed or corrected in some way, the date 25 March has been left. You appear to have work available.

[30] Submissions have been made on your behalf, it is submitted that I should take into account your personal circumstances and your guilty pleas. Against that of course are these things. You were on bail from 10 February last year on the first two charges, you then continued on a serious continuation of your offending while on bail. Offending while on bail is always a serious aggravating factor.

[31] Furthermore, drug dealing means that personal circumstances count for very little. In my view, you have a belligerent attitude which is devoid of any remorse or any sign that you are taking any responsibility for any of this, particularly your drug taking, and your attitude to mixing drug taking and truck driving is appalling.

[32] I can only assume that you think it will be cool or appropriate to mix skippering a boat with drug taking also. For a while, you will not be getting that opportunity. On the subject of your attitude, it comes through consistently throughout these documents. It is shown consistently in the pre-sentence report and

in the document from the District Health Board Addictions Service and that the fact that most of this offending I am dealing with was committed while you were on bail.

[33] I need to hold you accountable and to promote in you a sense of responsibility while of course imposing the least restrictive outcome. It seems to me that a global approach to all of your offending is the only realistic way of dealing with these matters and also it seems to me that prison is the only realistic outcome.

[34] Taking into account your guilty pleas in all the circumstances, those would normally attract a discount of 15 to 20 percent in all the circumstances. I intend to impose concurrent sentences on you and I remark that in all the circumstances, home detention would be quite inappropriate and would not adequately address the purposes and principles of sentencing.

[35] On CR number 0060, that is the car conversion, you are sentenced to one year imprisonment. On 0061, disqualified driving, one month imprisonment. On 0391, that is the aggravated drink-driving, six months' imprisonment. 0392, disqualified driving, six months' imprisonment. I make a zero alcohol order on that charge, you are also indefinitely disqualified and I make an order under s 129(b) that a written caution be sent to the owner of that motor vehicle.

[36] On 0447, possession of cannabis for sale, you are sentenced to two years' imprisonment. On 0448, possession of the pipe, you are convicted and discharged. On 0677, offering to sell cannabis, you are sentenced to two years' imprisonment. On 0671, theft, one month imprisonment. On 1462, theft, one month imprisonment.

[37] On 2649, possession of the knife, one month imprisonment. On 2651, possession of cannabis, one month imprisonment. On 2653, two months' imprisonment. I do not impose any release conditions in the circumstances.

R G Ronayne  
District Court Judge