

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

**IN THE DISTRICT COURT  
AT HAMILTON**

**CRI-2016-019-003333  
[2017] NZDC 10429**

**THE QUEEN**

v

**TYRONE TYSON MAKIMARE**

Hearing: 19 May 2017  
Appearances: T Clark for the Crown  
T Sutcliffe for the Defendant  
Judgment: 19 May 2017

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**NOTES OF JUDGE K B F SAUNDERS ON SENTENCING**

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[1] Mr Makimare you are for sentence on six charges of burglary, one charge of unlawful taking a motor vehicle and one charge of assault with a weapon. All of the offending except for the last one of assault with a weapon were committed jointly with Mr Nguyen. You pleaded guilty to these charges following a sentence indication by me on 27 March 2017. I indicated an end sentence of imprisonment for four years and five months together with reparation. Any other mitigating factors would depend very much on the contents of a pre-sentence report.

[2] Let me just firstly deal with housekeeping matters. I will sentence you today on charges 2, 3, 4, 5, 6, 9, 10 and 11 in the Crown amended charge list of 17 January 2017 and I formally dismiss you on charges 1, 7 and 8.

[3] As to the facts that form the basis of my sentence essentially Mr Makimare you were involved in a number of burglaries of commercial premises in Hamilton

and Auckland over a period in March and through to May of 2016. Premises targeted included [a retailer] in Hamilton. That was targeted on two occasions, 14 March 2016 and 17 April 2016. [A stationary retailer] in Chartwell was also subject to one of the burglaries as was [a retailer] in New Lynn. That burglary is what is commonly known now as “a ram-raid burglary” as you drove a motor vehicle through the glass panels at the front of the store. With a view to carrying out another ram-raid burglary a Nissan motor vehicle was taken and subsequently used in the burglary of [an appliance store] in Te Rapa. All in all substantial damage was done to the commercial properties and substantial property was taken.

[4] Mr Nguyen received an end sentence of imprisonment for two years and three months’ imprisonment.

[5] There is reason for disparity between the two of you that I will come to in a moment. One of those reasons is that you also face, the charge he did not, of assault with a weapon. That concerned wielding a crowbar at the security guard when the burglary at [the appliance store] was committed. I accepted in my sentence indication, as I do now, that you did not use that to strike the security guard, it was used as a means of scaring him off.

[6] Aggravating factors I referred to in terms of the sentence indication were matters that included the high value of items that were targeted, the commercial premises, there was a degree of planning and sophistication. This was as I described it then really a series of spree burglaries. In terms of the ram-raid burglaries I referred to the decision of *Tuifua v Police*<sup>1</sup>. That provided guidance as to the appropriate starting point.

[7] In the sentence indication I went through how I came to the end sentence of four years and five months’ imprisonment. The starting point I adopted was one of five years and six months’ imprisonment with a credit I indicated of 20 percent for a guilty plea. The notes of my sentence indication should be read in conjunction with this sentencing as they provide clarification as to how I reached those figures.

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<sup>1</sup> *Tuifua v Police* [2015] NZHC 2426

[8] The matter for me now then is to determine whether the pre-sentence report warrants further mitigating factors so as to justify an end sentence below that of four years and five months' imprisonment. The pre-sentence report is not a positive pre-sentence report at all. It does not speak of any remorse and you are described as showing a sense of entitlement. Ms Clark on behalf of the Crown today says that simply you are not interested in change and no further credit should be given to you. You are described in that report as a recidivist dishonest offender with little insight into your offending. Your risk of re-offending is assessed as high.

[9] Mr Sutcliffe on your behalf submits that you are indeed remorseful. He does not shy away from the comments in the report that your co-offender was you feel unfairly treated in a more lenient manner. He describes the pre-sentence report as shallow and urges me to give a further discount for remorse and the fact you have a young family and the end sentence is a substantial period of time away from them.

[10] Clearly you are a recidivist dishonest offender. Your previous history includes six burglaries as I took into account when I gave the sentence indication. There is and was justifiable reason for disparity between you and your co-offender.

[11] I will give you a small discount for remorse Mr Sutcliffe says that you do express but it will be a small discount. From end sentence of four years and five months' imprisonment I give you a further reduction for remorse of three months which takes me to a final sentence of imprisonment for four years and two months. That is the sentence on the charges I have already referred to together with reparation of \$4892.82.

K B F Saunders  
District Court Judge