

**IN THE DISTRICT COURT  
AT HAMILTON**

**CRI-2016-019-006384  
CRI-2016-092-014730  
[2017] NZDC 12980**

**THE QUEEN  
NEW ZEALAND POLICE**

v

**TEHURA DAMON HOHEPA**

Hearing: 16 June 2017

Appearances: M Dillion for the Crown  
Senior Constable M MacDonald for the New Zealand Police  
J Buckle for the Defendant

Judgment: 16 June 2017

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**NOTES OF JUDGE R L B SPEAR ON SENTENCING**

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[1] Tehura Hohepa you are for sentence on a large number of matters and I will now summarise them. You have pleaded guilty to them all.

[2] In respect of the Crown charge notice dated 9 March 2017, three burglaries of dwelling houses here in Hamilton and one charge of unlawful taking a motor vehicle.

[3] There is a further charge, charge 6 of attempted burglary. The Crown offers no evidence on that charge and you are discharged.

[4] This offending occurred back in October 2016. You pleaded guilty not at the earliest possible time but on 12 April 2017. I appreciate that you were charged with two others and that you have taken (what some may consider to be) a relatively brave approach by facing up to this offending alone; which is not the case with those

two who have been charged as being your co-defendants. You will get credit for that.

[5] You will also get credit for your participation in restorative justice. It is important that it is well understood that those who face up to their criminal behaviour at an early stage and those that also are prepared to have the strength to face their victims will get significant credit in the assessment of the sentence.

[6] You also face a number of police charges some of which occurred before the Crown offending (as it were):

- (a) 12 September 2016, unlawful taking a motor vehicle;
- (b) 13 September 2016 driving while forbidden and failing to stop when required to by a police officer with flashing lights and siren.
- (c) 5 October 2016 breach of Court bail

[7] Then on 30 December 2016, after the Crown offending, escaping from lawful custody and intentional damage of a GPS tracker, your bracelet.

[8] It has taken quite some time for all of these matters to have been brought together so that they could be addressed at one time.

[9] I will deal with the offending relating to the burglaries. You came down from Auckland to Hamilton with two others. You took a motor vehicle that you found parked in Ruakiwi Road and you and your co-defendants then used that as one of the vehicles to travel to various residential properties where you carried out the burglaries. These burglaries took place during the day and they involved a level of violence to enter the properties.

[10] All three properties that were burgled were on rear sections accessed by a long driveway.

[11] The first property in Cumberland Drive had its entire front door ripped off its hinges. The three of you then undertook what is described as an extremely messy search of the property and a substantial quantity of property was taken involving electrical goods, clothing, televisions, computers, an iPhone, jewellery and a wallet.

[12] Shortly afterwards you went to another property on Pukete Road. The front door was kicked in. The house alarm panel was ripped off the wall rendering it inactive. Another “*extremely messy search*” was undertaken and again a sizeable quantity of property was stolen including televisions, a game console, a mountain bike and clothing.

[13] Later that day at about 1.40 pm, you went to another property on River Road. It is again a back section down a right-of-way. The front door again was smashed in to enable you to gain entry. Another messy search was undertaken with electronic instruments and clothing including children’s clothing was stolen.

[14] The police were at that stage on the alert for the Mazda car that is the subject of the charge of unlawful taking that was eventually not pursued against you. It was located at a particular property. You were found hiding in the loft area of that property wearing a pair of shoes that had, indeed, been taken from the Pukete Road property.

[15] The Crown assesses the damage and loss to each of the complainants at \$4300 for the Cumberland Drive property, \$2600 for the Pukete Road property, and \$1480 for the River Road property. That is the value of the stolen items not recovered and the damage caused by the breaking into the properties.

[16] In relation to the other offending (the Police charges), on 13 September 2016 you were driving a stolen car that was stopped by the Police.

[17] The police subsequently attended your property on 30 December 2016 as probation had reported that you had returned home late from an approved absence. At that stage, you were on electronically monitored bail. When the police arrived at

your home, you took off. You ripped off your GPS tracker bracelet and threw it into a nearby creek.

[18] So how to deal with you. I received very helpful submissions from the Crown and I have received detailed submissions also from Mr Buckle. I have been assisted as well by a report from the Restorative Justice Trust and a presentence report from probation.

[19] You participated in a restorative justice conference. You explained in some detail the background to your life and what you were about at that stage. You have always considered yourself a car thief rather than a burglar. The owners of the motor vehicle has indicated that they accepted your apology. I have said earlier, there is a level of strength to your character that was shown by your preparedness to go to that conference and face up to the people against whom you had offended.

[20] You are 19 years of age. I have to say you did not impress the probation officer who prepared the report. It is said that you attempted to minimise and justify your involvement in the offending and sought to blame your co-defendants. I think, however, that you understand now that you have to accept responsibility for what you have done and you cannot attempt to put the blame on other people. To cap it all off, you are only 19 years of age yet you have massed quite a few convictions already.

[21] You have four previous convictions for unlawful taking motor vehicles and of course you were on a sentence of intensive supervision and community work at the time you committed all these offences.

[22] It is well understand that the burglary of dwelling houses presents a difficulty with sentencing primarily because there is always the risk of a confrontation with the occupier. In the case of *Arahunga v R*<sup>1</sup> the Court of Appeal indicated that the burglary of dwelling houses at the minor end of the scale tend to attract a starting point of between 18 months to two years and six months' imprisonment. I consider that, with respect, to be a most useful guide as to how to deal with you.

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<sup>1</sup> *Arahunga v R* [2012] 78 NZCA 480

[23] If I was to sentence you for just one of the burglaries, I would have adopted a starting point of 18 months' imprisonment. But for the three burglaries, I take the starting point to be three years' imprisonment. I lift that by a further six months for the unlawful taking of the motor vehicle. The fact that you were on an existing sentence at the time of intensive supervision and community work requires a further uplift which I set at four months and for your previous convictions a further three months. That brings me up just on that Crown offending to 49 months as an offending level.

[24] In relation to the police charges, the unlawful taking, the driving while forbidden, the failing to stop in the aggravated form and the breach of bail charges all which predate the Crown offending, they will not be taken into account to increase the sentence. However, the escaping from lawful custody and the intentional damage of the bracelet requires some uplift which I fix at three months. That brings the calculation to 52 months' imprisonment but I round that off to reflect totality at 44 months' imprisonment.

[25] I then look at your age. You are only 19 years of age and your preparedness to participate in a restorative justice conference shows that there may still be some hope for you. I trust that this is so. For your age, I reduce the sentence calculation by four months. For your participation in the restorative justice conference and your remorse a further four months and for your guilty plea I grant you credit of around 18 percent by reducing it by a further six months which brings me to 30 months as a sentence calculation.

[26] In relation to your guilty pleas the Crown considered that you should only get 15 percent credit. Mr Buckle argues for 20 to 25 percent and I have come through as to round off the figures at about 16-17 percent which is six months. As it happens that brings me to the sentence that Mr Buckle considered in his submissions would be an appropriate end position for you here of two and a half years' imprisonment.

[27] The all up sentence for you is going to be one of two and a half years' imprisonment. That will be imposed in this way:

- (a) On each of the burglaries two and a half years' imprisonment.
- (b) For the unlawful taking six months' imprisonment.
- (c) For the police charge of unlawful taking, six months' imprisonment.
- (d) Driving while forbidden convicted and discharged but with disqualification six months from today.
- (e) Failing to stop convicted and discharged, six months' disqualification from today.
- (f) Breach of Court bail convicted and discharged.
- (g) Escaping from lawful custody three months' imprisonment.
- (h) Intentional damage three months' imprisonment.

[28] In my view, an all up sentence for you of two and a half years' imprisonment is appropriate to mark the volume of offending. It reflects your age. It reflects the bright spark of being able to face up to your victims. It holds you fully accountable for what you have done. That is the sentence.

*Judge RLB Spear*

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*Authenticated pursuant to Rule 2.2(2)(b)  
Criminal Procedure Rules 2012*