

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

**IN THE DISTRICT COURT
AT PALMERSTON NORTH**

**CRI-2015-054-000415
[2017] NZDC 9191**

THE QUEEN

v

DEMIRIS BRENDON EDWARDS

Hearing: 3 May 2017

Appearances: K van der Plas for the Crown
P Drummond for the Defendant

Judgment: 3 May 2017

NOTES OF JUDGE D G SMITH ON SENTENCING

[1] Mr Edwards you appear today for sentencing on one charge of aggravated robbery. You have pleaded guilty to that charge on the basis of a robbery that was held on 11 February 2015. You were jointly charged with Mr Paul who has now also accepted his responsibility for this matter.

[2] Aggravated robbery carries a penalty of a maximum sentence of 14 years' imprisonment. On that date [the victim convenience store] on the corner of [street name deleted] and [street name deleted] was operated by [the victim] and his wife. Mr Paul went with his sister to Palmerston North to pick up his sister's car which was impounded in February 2015 while it was being driven by you. When the car was impounded Paul was in the car at the time as were yourself and others. Mr Paul and his sister went to Crash Services in Palmerston North and found that it was going to cost \$250 to get the car back; they didn't have \$250 cash. They then went to an address where you were living and not unreasonably Mr Paul's sister required

you to pay the impound fee given you had been the person driving it when it was impounded. You didn't have the money. Then Mr Paul together with his sister went to [the victim convenience store] at approximately two o'clock in the afternoon and purchased some small items. On leaving Mr Paul identified the dairy as a target for the robbery to you and to another person who were parked nearby in a separate vehicle. Paul and his sister went into town and then returned to where you were and she was dropped back by the two of you at Crash Services and you drove the Volkswagen Polo car to where you were staying, you were given some clothing by Mr Paul and you were told that there was two tills at the dairy and you took with you a BB pistol, which you both were aware of.

[3] At approximately five to four that day you and Mr Paul drove along [street name deleted] and parked the Volkswagen vehicle. Both of you exited the vehicle and walk along [street name deleted] towards [the victim convenience store].

[4] As you approached the dairy the two of you disguised your faces with items of clothing and by pulling up the hood of a hoodie. As you approached the entrance you ran into the shop, one of you presented the pistol at a customer who was attempting to leave, she backed off into the store. One of you moved towards the counter and presented the pistol at [the victim] while the other approached the counter with a bag demanding that he place money from the cash registers in the bag. After placing the contents of both cash registers in the bag the two of you ran out of [the victim convenience store] towards the waiting vehicle.

[5] [The victim] yelled out to his wife to call the police as he chased you down [street name deleted]. Realising you were followed you ran into an address on [street name deleted] and jumped the fence into the Terrace End Bowling Club leaving the vehicle that you had come in on [street name deleted].

[6] During the aggravated robbery it was estimated that the two of you took in excess of \$1500 cash from the victims. The two of you returned to where you were living where Paul was given some of the money and he went back to Crash Services, gave the money to his sister for the release of the car. Reparation for at least \$1500 is sought.

[7] The impact on [the victim] and his wife was, as one would expect, serious. [The victim's wife] in her impact statement says even though she was out the back her heart was racing, she was really scared, she was shaking badly and despite it happening a long time ago she is still affected by this incident today. Every time someone walks into the store wearing a hoodie or even dark glasses her heart jumps. She no longer likes working on her own and when she does she finds herself when she is out the back watching customers on the camera before she comes out to talk to them. She does not want to leave her husband on his own and she is worried that next time something bad might happen to him.

[8] [The victim] similarly says he has not been the same person since the robbery, he no longer can relax at work or even when he is at home, his heart jumps every time someone walks into the store with a hoodie or dark glasses and when he is at home he is constantly thinking what might be happening at the shop. He worries about his staff and his family who are working there. Previously if he was working and needed to pop out to do some errands he would go ahead and do it but now he has a fear and that he can no longer do so. At night he finds when he is at the store alone he cannot relax, he constantly jumps every time somebody walks into the shop.

[9] The customer that was in the shop also has suffered as a result of this, "I was completely shaking and terrified" she says, "I've been surprised how much this has affected me emotionally, I was very tearful and shaky for a long time afterwards, I felt very tired, did not care much about anything" and as time has gone by some things still worry her, she no longer likes things on television that show weapons being pointed at people and every time she sees a pistol on television she tries to remember if it was like the one that was pointed at her. She has been surprised by the way emotions can take over her body. She is finding out that stress causes powerful reactions over which you have no control of and her husband and family have been affected because they have noticed how seemingly small things can upset her.

[10] These actions are why aggravated robbery carries a maximum sentence of 14 years. The effect on people is far more and beyond what just the money that is involved involves.

[11] You are a person who appears before the Court with a history starting in 2006 involving in terms of dishonesty a burglary charge in 2007 and an unlawful taking of a motor vehicle at that time as well. The other convictions you have relate to driving matters and are irrelevant today.

[12] You sought a sentence indication which I gave you on 24 March and accepted the indication that I gave you. On the basis of the factual situation it is accepted that *R v Mako*¹ a Court of Appeal decision which sets certain bands of offending for this type of behaviour applies and that the case of *Molia v R*² was the closest in terms of what the appropriate starting point should be. Taking into account the facts that were involved the starting point I take is four years and four months' imprisonment.

[13] I have today received your letter of remorse and I have listened to what Mr Drummond has said concerning that. While your remorse is somewhat late in the piece I am accepting that there is a growing realisation on your part as to the affects this type of behaviour have, and I am prepared to deduct approximately two and a half months in terms of that. Then there is a discount for you accepting responsibility for these matters and the discount is approximately 10 percent which brings me down to somewhere in the region of 44 and a half months.

[14] You had spent time on E bail and as I indicated to you there is a discount of five months involved there, and the end result is in that we end up just under three years and four months which is the sentence that I indicated to you and in all the circumstances involved I believe that is still the appropriate sentence.

[15] So consequence Mr Edwards you are sentenced to three years and four months imprisonment.

¹ *R v Mako*[2000] 2 NZLR 170 (CA).

² *Molia v R* [2013] NZCA 512.

D G Smith
District Court Judge