

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

**IN THE DISTRICT COURT
AT HAMILTON**

**CRI-2016-019-007613
[2017] NZDC 9315
THREE STRIKES WARNING**

THE QUEEN

v

STEPHEN WATKIN JONES

Hearing: 5 May 2017

Appearances: S Gilbert for the Crown
G Boot for the Defendant

Judgment: 5 May 2017

NOTES OF JUDGE M L S F BURNETT ON SENTENCING

[1] Mr Jones, you are 41 years of age and you are here today for sentence having earlier pleaded guilty and being convicted on a number of charges. Charge 1 is threatening to kill as is charge 2 and 3. Charge 4 and 5 wilful damage. Charge 6 assault with intent to injure. Charge 7 assault with a weapon. Charge 9 wounding with intent to cause grievous bodily harm as is charge 10. Charge 11 possession of an offensive weapon and charge 12 is theft.

[2] The lead charges are wounding with intent to cause grievous bodily harm pursuant to s 188(1) Crimes Act. You have not been given an earlier strike one warning following your guilty plea and conviction so I am now going to give that to you and you are now subject to the three strikes law.

[3] I am now going to give you the warning of the consequences of another serious violence conviction. You will also be given a written notice outlines these consequences which will also list the serious violent offences and if you are convicted of any serious violent offences other than murder and committed after this warning and if a Judge imposes a sentence of imprisonment then you will serve that sentence without parole or early release. If you are convicted of murder committed after this warning then you must be sentenced to life imprisonment. That will be served without parole unless it would be manifestly unjust. In that event, the Judge must sentence you to a minimum term of imprisonment.

[4] Now in relation to these events, they are contained in the Crown summary of facts and are not disputed. So the events were 30 November 2016. You were driving your vehicle in [location deleted]. You filled it up at a local gas station and drove off without paying hence that is the minor theft charge, \$50 worth of petrol.

[5] Your purpose on that day was to locate [the victim] and you drove to her parents' home where she resided. She was not at home but her mum and dad were at home. You arrived. You began yelling abuse, demanding to know where [the victim] was and you also had a machete with you. Her dad came out to see if he could deal with the situation and this relates to the charge of wounding with intent to cause grievous bodily harm.

[6] You put him in a headlock and while holding him in this position you used your machete to cut into the top of his head. He received deep lacerations also to his hands whilst attempting to defend himself against the machete. Once you let go of [the victim's father] you then bashed your way through the front door of their house, smashing one of the glass panels.

[7] You could not locate [the victim] and so you simply got back into your vehicle and drove to another address where you assumed she would be and indeed she was there. Also there was another two men. So [the victim] had been alerted to your conduct because her mother had naturally called her daughter. So she goes outside to confront you which is an incredibly brave thing to do I have to say under the circumstances.

[8] You grab her by the hair, throw her to the ground and you slap and punch her around the face and head. She tries to defend herself and you then used the machete to cut her finger.

[9] Then one of the males came outside, trying to intervene and you told him you would "cut his cock off". So that is the threatening to kill. Also then the charge of assault with a weapon against this male. You raised your machete as if you were going to strike him and he wrestled the axe handle away from you. Then he barricaded himself inside a room and you tried to force your way in, hitting the door three times with the machete. Another male flatmate tried to intervene and you pushed him out of the way and that is a minor assault charge.

[10] When police arrived and had you in handcuffs you continued to yell threats towards your ex-partner and one of the males. So the book of photographs shows the extent of some of the wounds that you inflicted.

[11] As Ms Gilbert said it could have been significantly greater. Mr Boot on your behalf says well that is partly because you restrained yourself. I hope that is the case. I hope you were exercising some restraint.

[12] I will deal with the medical report now which is dated 12 December 2016. It does disclose that you were diagnosed with schizophrenia I think 2005 and you were on medication subsequent to that. You had stopped taking your medication and that was your choice to do so and you had not been on medication at the time of your offending. Mr Boot tells me you are still not on medication and you seem to be in good mental health.

[13] I think all of that is relevant because your medical condition is not causative of your conduct in any way and there was a suggestion in Mr Boot's submissions that a further discount be allowed because of your medical condition, but as I say it does not seem in any way to be causative of your conduct and so there is no link that warrants a further recognition or discount.

[14] I have read obviously Mr Boot's submissions on your behalf and Crown submissions. I agree that the lead charge or charges are the charges of wounding with intent to cause grievous bodily harm, attacks to the head, use of weapon and the inflicting of the wounds. [The victim] was a vulnerable victim and indeed as was her father. You are a strong youthful man, a counterpoint to age and a female victim. Clearly premeditation, clearly assault to the head, a home invasion are part of the offending both at the parents' home and where [the victim] was on that date and use of a weapon. Victim impact also counts in relation to that.

[15] The Crown cites *Rautahi v R*¹ and *R v Te Hei*².

[16] In the end there is not a great deal of dispute about starting points and although Mr Boot seeks a lower starting point overall as I said to Mr Boot I must look at the totality of culpability and the totality of the end sentence.

[17] Now in relation to charges 9 and 10 I take a starting point of six years' imprisonment. I uplift that by between 18 and 20 months for the other offending. Then I have to take into account the totality of the end sentence and I reduce that uplift to 14 months. That comes to seven years and four months' imprisonment. You do get a full discount for the early guilty plea. It came at a very early stage and hence you warrant the full discount. So that comes down to five years and four months' imprisonment. I agree that no minimum period of imprisonment needs to be imposed, that you are better left with the Parole Board to determine release.

[18] I think I have already indicated that there is no additional discount for mental health issues as there was first of all a delay for entering the guilty plea to ascertain that there were no mental health issues. There are none and certainly none that are causative.

[19] So there also is no additional discount for remorse as you gained that with the early guilty plea. I accept that your remorse is fully reflected by your early guilty plea.

¹ *Rautahi v R* [2011] NZCA 351

² *R v Te Hei* [2016] NZHC 1538

[20] It was an egregious attack on individuals in order to get to [the victim] and possibly [the victim's partner]. You had voluntarily departed from your medication programme for your diagnosed or your known condition and that was a matter of your own choice and it seems to be currently your choice at the moment.

[21] So the circumstances also warrant a disqualification from driving for a period of one year and one week from today's date which means you will have to re-sit your licence under s 124 Sentencing Act. It was a deliberate use of your motor vehicle to get to your destination and then to drive on to make sure you located the person you were ultimately seeking.

[22] Order for destruction of the machete and the hunting knife is requested. I do not make an order for reparation much as I would like to. I accept that you will be serving a lengthy term of imprisonment.

So in relation to charges 9 and 10 the end sentence is five years and four months. Charges 1, 2, 3, 6 and 7 are one year imprisonment concurrent. Charges 4, 5 and 12 are one month concurrent and charge 8 three months' concurrent.

M L S F Burnett
District Court Judge