

**IN THE DISTRICT COURT  
AT AUCKLAND**

**CRI-2016-004-001720  
[2017] NZDC 13371**

**THE QUEEN**

v

**SEKOA JOHNATHAN ANAE**

Appearances:      E McCoy and T McGuigan for the Crown  
                          C Tucker for the Defendant

Judgment:          16 June 2017

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**DECISION OF JUDGE PA CUNNINGHAM  
[Declining jurisdiction - s 90 Sentencing Act 2002]**

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[1] Sekoa Anae appears before me for sentence today in relation to one charge of aggravated robbery, three police charges of using indecent and obscene language with intent to offend and two charges of indent assault.

[2] I am declining jurisdiction to sentence Mr Anae because I have formed the view that he may be someone for whom a sentence of preventive detention is appropriate. My reasons for saying that are as follows.

[3] Mr Anae is 46 years of age. He had a small criminal history of minor matters until the age of 32 or 33. He committed offences in 2003 namely assault with intent to commit sexual violence, breaking and entering using a weapon and indecent assault. He was sentenced to prison for a period of six years. In 2011, he was sentenced for indecent assault for a period of eight months imprisonment.

[4] Before the Court we now have more violent offending and more sexual offending. There is one charge of aggravated robbery which involved luring the victim to an address, weapons were present. Mr Anae has pleaded guilty to this charge. Two other persons are yet to be dealt with on this matter. There is a jury trial, I understand, scheduled for some time soon in this Court.

[5] While he was on bail he committed two indecent assaults against a [details of victim deleted] which involved his giving her methamphetamine prior to each incident.

[6] Although they are not matters that are a qualifying offence in terms of s 87 Sentencing Act 2002, there are three charges of using indecent and obscene language with intent to offend from June 2015 to February 2016. This involved three separate women who were phoned by Mr Anae who made explicit sexual suggestions to them which are of a very concerning nature.

[7] I also note that in March 2016 he was charged with assault with a weapon and threatening to kill. I am not at all sure what has happened to that charge because I cannot see it in his conviction list.

[8] I have here on the file an application to review a sentence. As I understand it, he was sentenced to prison in the District Court and there was an appeal and the High Court gave him leave to apply for home detention. The difficulty being in the District Court was that he was without a home detention address by the time it got to sentence. I am not at all sure what has happened to that application. No counsel present seems to know about it. I do note that it was Mr Kovacevich counsel who filed the application to review the sentence.

[9] On 1 March 2017, a first strike warning was given in relation to the aggravated robbery charge. That was wrong because a first strike warning was given in relation to the 2011 indecent assault conviction. So it should have been a second strike warning on 1 March.

[10] So there are a number of factors that are not settled about this sentencing in addition to my concern about whether or not the sentence should be preventive detention.

[11] For that reason, I am going to remand this matter to the High Court for callover on 2 August 2017 at 9 o'clock.

[12] There has been some difference of view about whether I should order the reports for the preventive detention sentence consideration or whether the High Court should do that. It makes sense those reports are obtained at the earliest opportunity. I am going to order two health assessor's reports pursuant to s 88(1)(b) of the Sentencing Act and direct that those be prepared for consideration for the High Court when it is seized of the matter.

[13] I will finish by saying that one of the reasons that Crown counsel may not have given consideration to whether or not this was a suitable case for preventive detention is because there are split warrants now in Auckland. The aggravated robbery charge is an Auckland District Court matter and the indecent assaults are Manukau charges. Neither Crown counsel were aware of the details of the police matters.

[14] As I indicated to counsel, this is not the first time in a period of a month that I have seen what I perceive to be problems with a sentencing matter because Auckland counsel was not aware of Manukau charges and vice versa.

[15] Mr Anae, you will be remanded in custody to appear in the High Court for callover at 9.00 am on 2 August 2017.

P A Cunningham  
District Court Judge