

**IN THE DISTRICT COURT
AT DUNEDIN**

**CRI-2015-012-002484
CRI-2017-012-001080
[2017] NZDC 14632**

NEW ZEALAND POLICE
Prosecutor

v

TINA TIPUI WEEPU
Defendant

Hearing: 30 June 2017

Appearances: Sergeant C George for the Prosecutor
D Taffs for the Defendant (via AVL)

Judgment: 30 June 2017

NOTES OF JUDGE K J PHILLIPS ON SENTENCING

[1] Mr Weepu, this ‘swag’ of charges that you are for sentence on has been ongoing for a long, long time really. It is important that there be finality, albeit that you still have a Judge-alone trial next week. That matter can be looked at at that time. I am not the presiding Judge for that hearing.

[2] You are 27 years of age. I have had Mr Taffs your counsel on AVL, and listened carefully to what he has had to say. He describes your background; he describes your total lack of support, appropriate levels of training, education and skills; disciplines in life. I think to sum it up it seems to me that you have never had a real home. You have always suffered from this lack of support, lack of training. You lived in an overall “blanket of criminality and social misbehaviour” in your immediate family circles. It just became part of your life. That in my view is reflected in what is fast becoming

page upon page of prior convictions in your prior history involving dishonesty and now involving reasonably serious violence. Because for the purposes of this sentencing the act of violence is the head or lead charge and one of the primary reasons really why you are going to prison for a reasonably lengthy period of time. I accept again what Mr Taffs has said that it is difficult to understand how this offending occurred other than to put it primarily back to the fact that you were abusing, using, addicted to, or whatever the case may be, methamphetamine.

[3] At 10 to nine on Tuesday 17 November the victim was walking down Cargill Street in Dunedin. He did not know that his life, at 73, was to change really forever. He was approaching you as you were out with your dog. Your dog was on a public reserve area defecating. The victim made some passing comment to you that he hoped you would pick up the faeces. Your reaction to it was this. You began to furiously swear at him as he walked on. When he was some 20 metres away you ran at him and forcibly pushed him from the back using both your hands. That caused him to be thrown up onto the bonnet of a vehicle, he hit his head on the bonnet, then falling off hitting his head on the kerb which knocked him unconscious. You were not done with him. He came to and found that you had a grip on his collar. You were shaking him with your face right up to him yelling and swearing at him. Then you let him go. You left him lying in the gutter as you walked away. When you were spoken to by the police you denied any knowledge of the assault and said you were not in Dunedin at the time.

[4] The victim has suffered as a direct result of your actions upon him. He suffered cuts to his knees, arms, hands and above his left eye and bruising to his ribs. But also what in fact occurred was he lost his sight in his left eye. His vision went dark. He has permanently lost 25 to 50 percent of the sight in this eye because the inside of his eyeball ruptured when he hit his head on the kerb. That, as I have said, has changed his life. He is a commission worker. He cannot work at 73. He also suffered clothing loss, other items of a personal kind damaged. He says this, "This was illegal. She should not be able to go around doing this to pensioners. She could have killed me." Mr Taffs said today that if he had died you would have been guilty of manslaughter. That is right. I have an updated report on the victim. He is 'out of pocket' for \$400-\$500. He has scarring and of course the ongoing eyesight problems that he will have

for the rest of his life. I cannot make any order for reparation here. You have no form of financial sustenance although I appreciate your partner has seen fit to make payments of monies owed for the drive-away thieving that was undertaken which I will come to.

[5] You are then also here for some number of charges relating to the use of credit cards. That offending is back in 2015. You knew the elderly owner of the card. You were at his house. You used his bank card. It had a PayWave function. You took his card without his knowledge. You used it all over the place over a period in June 2015. You said you had “arrangements” with him and were entitled to use it because you were owed wages by him.

[6] You are also for sentence on matters relating to the “drive-away” refuelling of your car. That occurred in Balclutha. 26 litres of fuel. You wrote down false details on the unpaid fuel form and left the service station. You did not return because you did not have the money. As I have said reparation has been “made good” by your partner.

[7] There are other matters relating to when you were stopped in your vehicle under the search and surveillance legislation. The search of the vehicle resulted in certain information. The police acting upon the information went to an address where you were. You hid a purse in long grass. The police found the purse. Found cannabis. A glass pipe and a small amount of methamphetamine. You were being questioned by police and the items were placed on the table. You picked up the container with the drugs and ran away with it. You then threatened the police officer with a rock. You were finally arrested and taken to the Hokitika Police Station.

[8] There are numerous breaches of your bail over the two years it has taken to resolve all of this.

[9] There have been ongoing issues in relation to attempts to obtain home detention addresses, none of which have been successful. An electronically monitored sentence was not going to be available, in any event. My finding would have been that you were not suitable for that type of sentence.

[10] As I have said here there are various acts by you which have caused people injury and loss. Mr Young, the victim of your violence; the elderly gentleman in relation to the use of his credit card. If I could I would make reparation orders but I cannot because they would be empty.

[11] I note from your history in recent times that you have had sentences of community work in 2015 for dishonesty. Then there was violence back in October of 2011. Similar offending to what you are now before me for through 2009-2011. I have to have regard to all of those previous matters.

[12] I take particular note of what Mr Taffs has said when I come to the decision as to how long you should go to prison for. I have carefully read his submissions and the information that he attaches to these submissions. I note that he considered in his written submissions an end point not over two years. I think his submissions today were more to two years as the end point to sentence.

[13] I note the provisions of s 7 Sentencing Act 2002. Accountability, denunciation and deterrence; above all here protection of the community; the gravity of the offending; consistency; the impact of the offending on the victims. I need to look at all those issues. I have noted what has been said in the pre-sentence report. Poor compliance with community-based sentencing. There are other issues raised in the report.

[14] In the end I am sentencing you on this basis.

- (a) On the charge of injuring with intent, in my view, the starting point on that sentence should be 20 months' imprisonment.
- (b) The use of the documents charges taking into account the nature of those offences and the nasty use of the man's card on repeated occasions, I consider for both those charges a starting point of eight months.

- (c) In relation to the matters involving methamphetamine, the possession of utensils and the actions on the police officer, a further three months making a total term of 31 months all up.
- (d) I need to look at the position overall and have regard to totality. I do so. That brings the starting point back to 28 months. I look at that. I consider that is an appropriate starting point allowing for totality and with respect to your overall offending.

[15] I then have regard to your past history. I uplift it by what I consider to be a merciful amount only, taking into account the matters that Mr Taffs' has mentioned. I uplift the starting point by four months to 32 months' imprisonment.

[16] In reality here guilty pleas were either late or were entered prior to Judge-alone trials. Again, I acknowledge what Mr Taffs has said about that. Overall I consider a merciful allowance of 15 percent is appropriate for your guilty pleas.

[17] That overall brings your sentence down to two years and three months. I consider when I have regard to the overall offending and the matters that I have attempted to point out and having read the pre-sentence report, Mr Taffs' submissions and heard from him today, that an overall end sentence of two years and three months is appropriate. That sentence is entered on the charge of injuring Mr Young by an unlawful act. You are sentenced accordingly. The following sentences are also imposed but they will run at the same time as the sentence I have just imposed.

- (a) The obtaining by deception. You are sentenced to prison for two months.
- (b) Breach of bail on 18 October. You are sent to prison for one month.
- (c) Breach of bail 24 May at Greymouth. You are sent to prison for one month.

- (d) Possession of a pipe on 30 March at Greymouth. You are sent to prison for two months. Orders for destruction of all seized drug paraphernalia.
- (e) Possession of methamphetamine 30 March. Two months' imprisonment.
- (f) Obstructing Constable Armstrong. One month's imprisonment.
- (g) Breach of bail in Greymouth, 16 June 2015. One month's imprisonment.
- (h) Breach of bail Greymouth, 15 December 2015. One month's imprisonment.
- (i) Using a document 20 June 2015. Six months' imprisonment.
- (j) Using a document on or about 21 June. Six months' imprisonment.

[18] Two years and three months Ms Weepu. The Parole Board will set the terms of your release. You will have sufficient time hopefully to engage in interventions that can only help you if you work hard at them and accept what is being told to you.

[19] Mr Taffs any outstanding community work hours and the sentence itself is cancelled.

K J Phillips
District Court Judge