

**IN THE DISTRICT COURT
AT HAMILTON**

**CRI-2017-068-000156
[2017] NZDC 18689
THREE STRIKES WARNING**

THE QUEEN

v

DION MONTAGUE PHILLIPS

Hearing: 22 August 2017
Appearances: J Foster for the Crown
Defendant appears in Person
Judgment: 22 August 2017

NOTES OF JUDGE R L B SPEAR ON SENTENCING

[1] The defendant appears following a sentence indication hearing before me on 9 August 2017. A copy of the decision was sent to Corrections on 10 August for urgent transfer to Mr Phillips but, unfortunately, did not reach Mr Phillips prior to his appearance on 16 August.

[2] He has now received that decision and he has had time to consider it. He has indicated that he considers that I have not provided sufficient credit for his remorse for this offending. In that respect, the telling comment was made by Mr Phillips that this offending really needs to be seen as a cry for help by him or, as I might express it, an expression of his frustration at his inability to be able to engage with the Taumarunui Police in respect of his complaints about a methamphetamine dealer.

[3] Mr Phillips indicated that if I was to revise the sentence indication to 24 months' imprisonment then he would plead guilty to all four charges.

[4] I explained to Mr Phillips that a sentence of 25 months' imprisonment would make him eligible for parole after just over eight months and for definite release after 16 and a bit or 17 months. A sentence of 24 months' imprisonment would see him not eligible for early release until 12 months of that sentence has past. Mr Phillips understands that.

[5] I am prepared to make a slight compromise, as I accept that the defendant is remorseful and I accept that this was to a large extent an expression of his frustration for the reasons I have mentioned both today and also in the sentence indication decision that I gave on 9 August 2017. The sentence indicated is now 24 months imprisonment.

Charges put to the Defendant

[6] Mr Phillips initially pleaded guilty *by duress*, but I would not accept that plea. I indicated to Mr Phillips that I will not accept a qualified plea. Mr Phillips then reconsidered his position and then entered a plea of guilty to each of the four charges put to him by the Registrar.

[7] He is convicted accordingly.

[8] Because of his conviction for robbery, I am required to give Mr Phillips this warning.

Mr Phillips, you are now subject to the three strikes law. I have to give you this warning about what will happen if you are convicted of another serious violent offence. You will get a written notice which will outline this and which will list the serious violent offences:

- (a) ***If you are convicted of another one of these serious violent offences other than murder after this warning and you get a sentence of***

imprisonment, you will serve that sentence without parole or early release.

(b) If you are convicted of murder after this warning then you must be sentenced to life imprisonment. That would be without parole, unless it would be manifestly unjust. In that event the Judge must sentence you to a minimum term of imprisonment.

[9] I can now proceed straight to sentence. Mr Phillips is well-known to me and to the local Courts as a result of previous dealings. There is no point getting a pre-sentence report and, indeed, Mr Phillips does not want sentencing to be delayed so that that happens.

[10] Having regard to all those matters that I covered in the sentence indication decision and taking charge 1, the charge of threatening to kill the police, as the lead charge, Mr Phillips is sentenced to two years' imprisonment.

[11] On charges 2 and 3, the charges of demanding with menaces and robbery, you are sentenced to one year's imprisonment on each of those two charges.

[12] On charge 4, possession of cannabis, one month's imprisonment.

[13] The sentence is two years' imprisonment all up.

[14] Mr Phillips is not in a position to pay reparation and so no reparation is ordered.

Judge RLB Spear
District Court Judge

Date of authentication: 29/08/2017

In an electronic form, authenticated pursuant to Rule 2.2(2)(b) Criminal Procedure Rules 2012.