

**IN THE DISTRICT COURT
AT GISBORNE**

**CRI-2015-016-001844
[2017] NZDC 20286**

THE QUEEN

v

DIO HARONGA

Hearing: 7 September 2017

Appearances: C R Walker for the Crown
L H Maynard for the Defendant

Judgment: 7 September 2017

NOTES OF JUDGE W P CATHCART ON SENTENCING

[1] As you know, Mr Haronga, you appear for sentence in relation to a very serious crime. It is a charge of wounding with intent to cause grievous bodily harm. When you appeared before me last I gave you a first strike warning. That will obviously have reinforced in your mind how serious the law takes such a charge.

[2] The offending related to what took place late in the afternoon on 18 August 2015. What you did that day set in motion a storm in that community. It resulted in a series of violent acts by others following your offending. Your offending had a profound effect on that victim's family and the Mahia community in general.

[3] As you know, a birthday celebration was underway in the shed of [the brother of the victim]]. People were sitting around a table drinking. You arrived with your father, Mr Boyce Taumata, and [an associate]. You had a grievance with one or more

members of the [victim's] Family following some incident months earlier in which you had been assaulted. You and your father entered the shed. Your intentions were clear from the moment of entry. You assaulted [the victim], who was initially in a sitting position. You struck him in the head with an empty glass bottle which you took from the table. You then punched him and then struck [the victim] again in the head with a full glass bottle which smashed on impact.

[4] Your father then joined in on that assault. The Crown accepts that your father did not anticipate the extent of the violence you inflicted on the victim that day. Your father's involvement was in grabbing and holding [the victim] by the scruff of the neck and in punching him, although the number of punches and the location of them on the body are not clear.

[5] [The victim] was left with wounds to his head and a cut to his nose as well as bruising to his eyes and in the front of his left ear. I have seen the photographs. He required hospital treatment.

[6] The Crown submits this offending involves aggravating features which speak for themselves. There is the element of home invasion. The assault on [the victim] was unprovoked. The assault was also indiscriminate in that the victim did not appear to be the intended target. But due to his family connection, he became one. There is a degree of vulnerability of the victim. He was initially seated at the time. Also, there were, in the round, two attackers.

[7] With respect to the aggravating features of the attacks to the head and the use of the weapons, I accept Mr Maynard's submission that I need to be careful not to treat those two factors as wholly independent aggravating features. That is because the use of the weapons and the blows to the head involve essentially the same act. He refers me to the comments in *R v Flavell*¹ on that point.

[8] Looking at the aggravating features in total, including the injuries suffered by the victim, I consider the appropriate course is to stand back and evaluate the overall

¹ *R v Flavell* [2011] NZCA 361 at [22].

seriousness of that offending. In my view, the appropriate starting-point here for the offending is eight years eight months' imprisonment.

[9] In fixing that starting-point, I take into account the need to deter and denounce your conduct, to hold you accountable for the harm you caused [the victim], and to promote in you a sense of responsibility for your offending if possible. I do not intend to uplift the starting-point because of your previous conviction history. The Crown accepts that the only serious violence conviction that you have in your history was for aggravated robbery in 2006.

[10] I now move to issues in mitigation which are designed to reduce that sentence. Here, Mr Maynard submits you have shown a degree of remorse for your actions. Your time in custody has allowed you to reflect on what you did that day. In the letter you have written to the Court, you express you are truly disappointed and ashamed for what you did to [the victim]. You describe this prosecution as being a blessing in disguise because you have now had the opportunity to obtain counselling whilst in custody. All of those are positive features.

[11] In the circumstances, I deduct from the starting-point a period of four months.

[12] In the round, I thus adopt a starting-point, before discount for guilty plea, of 100 months. I then give you a 15 percent discount for your guilty plea. In the end, you are sentenced to a term of imprisonment of seven years one month.

W P Cathcart
District Court Judge