

**IN THE DISTRICT COURT
AT HAMILTON**

**CRI-2016-019-006383
CRI-2016-019-008109
CRI-2017-019-001204
CRI-2017-019-003847
[2017] NZDC 25840
THREE STRIKES WARNING**

THE QUEEN

v

JAHMIN IKE TAIROA TE HINGA INIA

Hearing: 15 November 2017

Appearances: T Needham for the Crown
L Preiss for the Prosecutor New Zealand Police
T Sutcliffe for the Defendant

Judgment: 15 November 2017

NOTES OF JUDGE P R CONNELL ON SENTENCING

[1] Mr Inia you are sentenced today now on a number of charges. You are aged 24 and this is a real spree of offending that you are being sentenced for. You came before me and you asked the Court to give you some idea of what the sentence would be if you pleaded guilty to everything. You know at the end of the day that the sentence indication meant that today would be imposed a sentence of five years and three months' imprisonment if you accepted the indication, and you did.

[2] You have now had pleas of guilty entered against the charges.

[3] Today it is simply a matter of imposing that lengthy term of imprisonment.

[4] I am aware it is a length of time for you and I have taken notice of the contents of your probation officer's report because that is the only other document that has been put before the Court since that indication and it is a report that does not speak well for you. It says you do not have any remorse or victim empathy. You know at the time of the indication I spoke to you about that lady who lost her pounamu which is of sentimental value to her. It was an artefact that she valued and she and her husband equally lost some jewellery. It is something that, as I would understand the Probation Service report, you just do not really care too much about but that is your approach and that is what your Probation Service have told me.

[5] Equally they have said that you are someone who has a propensity for offending in a violent way. You have a sense of entitlement that you can do these things without there being any consequence and unfortunately there is a consequence today for all of that. The other important factor in that report is the factor suggesting now that you may need some form of psychological intervention and that will be available to you in the course of your sentence. The Crown have indicated that this is not a report that would allow for any further discounts in sentence. Your counsel does not argue with that, there is nothing in the report that would support an approach being taken by the Court in that way.

[6] The matters you are being sentenced for a burglary, a robbery. There is then in the Crown charge notice of 1 June 2017 a receiving charge, a further burglary. There were charges then of you using a Visa debit card to help yourself to other people's money. You have pleaded guilty to those. I think there is four of those. There is a charge of theft and then there are police matters which also include a burglary, the charge of using a BNZ Visa card that you had dishonestly got hold of, using that same card then to buy petrol, food. You were in possession of rounds of ammunition, that is a matter you have pleaded guilty to as well and you have two charges relating to possession of ammunition for different types of ammunition. Little really needs to be said about those matters. The aggravated robbery occurred as a matter of stand over, use of violence, threatening someone that if they did not give you money then they would be killed. That was the effect of it and \$1180 cash was taken from the young woman complainant in that case.

[7] In terms of the burglary, it was entered where as I said to you it was that pounamu that was taken, a wedding ring, there was a television set. The television set was later recovered in that particular burglary. The charges of receiving and using a document occurred in December last year where a card was taken and then used and you know the outcome of all of that. Today the Crown seek reparation of \$1000. You are not in any position to meet reparation with a term of imprisonment being imposed, I cannot really make that order. It is a pity, it is to me an appropriate order that should be made for the people who lost here but with the hopelessness of your financial position it is something that cannot be done.

[8] The way I dealt with this at indication was to take as a lead charge the burglary in November 2015 and I imposed an 18 month starting point less a three month deduction for a guilty plea. That started you with a 15 month term of imprisonment. What I did then and do today is on that sentence impose uplifts to that starting point and so the first uplift relates to the aggravated robbery. My indication notes show that that was then a net sentence of 21 months' imprisonment and in the course of that I gave you a discount for your guilty plea as you know. So that was 15 plus 21. From there we went to the burglary of 2016, again 18 months was appropriate and I deducted five months for your guilty plea. You ended up with an uplift there too for other offending relating to that and that was nine months, so it was a total of 22 months' imprisonment imposed. For that which was then an uplift on the burglary as I say. Then there was following all of that the Exelby Road burglary. 18 months was the starting point. Uplift for the other offending which was the use of the cards and things that were stolen during the course of that and that took you up another ten months. So that was 28, five off for your plea of guilty. That was a 23 month term, and adding those four terms, 21, 15, 22 and 23 months, you ended up with 81 months.

[9] I had to, as I explained to you in the course of the sentence indication, make deductions for the principle of totality, not something you might fully understand but it is an advantage to you, and it took from the 81 months a term of 18 months, taking you down to a 63 month term. Despite saying in my sentence indication notes that it was five years and six months, proper calculation it is five years and three months' imprisonment that is imposed on that one charge of burglary of November 2015.

[10] The other sentences imposed in respect of all the other matters will be imposed and be apparent on the Court record and the list of previous convictions that will result out of all of those, but they are not sentences on top of the five years and three months. The way that I intend dealing with those as per the sentence indication. For the sake of the record on the next burglary after the November 2015 one is a term of 22 months' imprisonment and nine months on each of the related offences. On the aggravated robbery there is a 21 month term, that is recorded against the charge itself. On the Exelby Road burglary there is a 23 month term because that takes account of the related more minor offending in terms of that and they will each have nine months on them but the total against the Exelby Road burglary will be 23 months.

[11] That sentence of five years three months is now imposed on you.

[12] An order for destruction for the ammunition is made.

[13] I need, Mr Inia, to tell you that as a result of your conviction for the aggravated robbery, there is what is called a three strikes warning on you now. It means that if you are convicted of any serious violent offences other than murder committed after I have given you this warning today, 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. Notice of this warning will be given to you and on the back of that is a list of the offences that then would have you qualify for the consequences of this warning that I am giving you.

[14] The other thing we should note is charge 1 and 4 on the 1 June charge notice are discharged because no evidence is offered against you.

[15] You can now go.

P R Connell
District Court Judge