

**IN THE DISTRICT COURT
AT WAIHI**

**CRI-2017-079-000434
[2018] NZDC 1004**

THE QUEEN

v

JOHN WAYNE WICKLIFFE

Hearing: 22 January 2018
Appearances: A Pollett for the Crown
P Attwood for the Defendant
Judgment: 22 January 2018

NOTES OF JUDGE T R INGRAM ON SENTENCING

[1] Mr Wickliffe, as you know you are for sentence today on a number of matters. Mostly importantly there are charges of causing grievous bodily harm with intent to do so and another charge of wounding with intent to cause grievous bodily harm. In addition to that there is a total of four breaches of a sentence of an extended supervision order and there is also a charge of shoplifting.

[2] The circumstances are relatively unusual. This has occurred whilst you have been on extended supervision which is a sentence that followed a conviction some time ago.

[3] You are 41 years of age and initially you were doing quite well with a bush job which kept you largely out of trouble, at least with the rest of the public, but got you

into a bit of strife with the Department of Corrections. Eventually you lost your job in the bush, got on the booze and that has led to the violent offending which has occurred.

[4] You yourself have little recollection of what occurred in relation to the violence. Suffice it to say that you drank far too much, you should not have been drinking at all. You got, as the summary describes it, amped up and that led you to a physical confrontation which has produced some serious results.

[5] On one person that you punched, you punched him hard enough to damage his eye to the point where he has lost the sight in that eye. In relation to the other man, again you have hit him so hard that you have knocked him out. He remained unconscious while you continued to attack him, kicking him and banging his head on the ground. The result, he had several fractures to his eye socket and to his skull.

[6] The net result of all that is that the victims, who are related to you, have received appalling injuries. I have read their victim impact statements which make it clear it is not just the physical injuries which is a concern. I know that you have been made aware of what is in those victim impact statements. Neither of these men are youthful, they are likely to suffer psychological effects from their injuries, probably for the rest of their lives.

[7] The charge of shoplifting is straight forward, you simply stole a bottle of booze. The breaches of your supervision order are more largely to do with you not reporting. Some of that I accept revolved around your employment, some of it did not.

[8] The probation report understandably recommends a sentence of imprisonment which is all that can conceivably happen here.

[9] The Crown have made submissions saying that there should be a seven and a half to eight year starting point with a further uplift on the violence alone to take the sentence of nine years and a further year for the other matters which would take us to something in the order of 10 years.

[10] Your counsel on the other hand submits that there should be a starting point in the region of eight years, there should not be uplifts and you should get credit for your plea. No one is arguing about the credit for plea, it was entered promptly and I accept that a full 25 percent credit is due to you for your acceptance of responsibility here.

[11] I need to hold you accountable for what you have done. I have got to take into account the interests of the victims who have been seriously injured. I need to denounce your conduct, deter you and everybody else from this kind of behaviour. The community need to be protected from you, you need rehabilitation and reintegration. That is going to need to be addressed by the Parole Board. This is a serious type of offence and of its kind it is relatively serious.

[12] I need to be consistent with sentences imposed on others in similar circumstances and counsel have referred me to a number of authorities which has guided the assessment of the starting point by me. I have taken into account the effects on the victim and obviously, a sentence of imprisonment here is the only sentence that can reasonably be expected in relation to violence of this kind.

[13] The aggravating features include the extremity of the violence. It occurred whilst you are still subject to a Court sentence. There is a fair bit of harm to these victims which is inherent in the charges that have been laid. You yourself have got a pretty substantial prior record, much of it I accept arises from abuse of alcohol by you. You clearly have got a significant alcohol problem which is going to need to be grappled with one way or the other in your time in prison or on release by the Parole Board.

[14] It seems to me on analysing the authorities and accepting as I do that you are as remorseful as you can be about the damage that you have done here, that an appropriate starting point would be a sentence of eight years' imprisonment. I do not consider that the two incidents can be separated and that starting point is selected with a view to including both victims and both offences in that assessment.

[15] It seems to me that the charges of breach of your supervision and the shoplifting, being a completely different type of offence, would justify an increase of

12 months from that starting point which would take me to a high point of nine years. I would be prepared to allow a total of 27 months for your guilty plea which would produce an outcome of two years and three months deducted from nine years on my arithmetic. That would produce an end sentence of six years and nine months.

[16] I have given careful consideration, Mr Wickliffe, as to whether or not your remorse is such that you should be entitled to a further discrete allowance for that but having considered the matter carefully it seems to me that I have already adopted the lowest conceivable starting point for damage of this kind done to two men on a single occasion. I am not prepared to grant you any further reduction in sentence to allow for that.

[17] Accordingly, I will deal with you in this way. On the shoplifting charge, you will be convicted and sentenced to imprisonment for a period of one month. On all the breaches of the extended supervision order you will be convicted and sentenced to imprisonment for a period of 12 months. Those are all to be served concurrently and they are all to be served concurrently with the sentence I am about to impose on the two grievous bodily harm charges. On each of those you will be convicted and sentenced to imprisonment for a period of six years and nine months. They are to be served concurrently.

[18] The net result for you today is a sentence of six years and nine months' imprisonment as all sentences are to be served concurrently.

T R Ingram
District Court Judge