

**IN THE DISTRICT COURT
AT MANUKAU**

**CRI-2017-092-010229
[2018] NZDC 1959**

THE QUEEN

v

SAMSON ALEC-NUI TEKEU

Hearing: 7 February 2018
Appearances: B Smith for the Crown
L Cordwell for the Defendant
Judgment: 7 February 2018

NOTES OF JUDGE J C MOSES ON SENTENCING

[1] Mr Tekeu, you are for sentence before me today on three very serious charges. There is a charge of wounding with intent to cause grievous bodily harm and two charges of aggravated robbery. Before I look at the summary of facts on those charges I need to let you know what my role is and the factors that I need to take into consideration when I am sentencing you.

[2] Part of my role as the Judge is to hold you accountable. What that means in more simple language is that you need to realise that there are consequences for things that you do, and I am sure as you stand there you are aware of the fact that there are such consequences. I must denounce your behaviour, that means I must make it clear not only to you but to everyone else in the community by the sentence I impose that this is sort of behaviour is not acceptable. I must deter you and others, that means put you off from doing this type of thing again and deter others from carrying out similar type offences.

[3] In terms of the charges the first charge relates to an aggravated robbery of a takeaway bar in East Tamaki on 23 August last year. At around 9.20 pm you had entered into that takeaway bar with a rifle, jumped over the counter and pointed the rifle at the victim demanding money. He pulled out a small amount of money from his pocket and gave it to you. You demanded more money at which stage he opened a coin drawer and handed you a bag of loose coins. You then jumped back over the counter before running off.

[4] Some two or three days later on 26 August last year you and a young person went behind the [Service Station] in East Tamaki Road. You and the other person ran up to a vehicle that was in the forecourt. The victim was sitting in his vehicle. On reaching the driver's door you threw a brick through the open window striking the victim in the head. You then proceeded to stab the victim on a number of occasions with a large knife striking him in the head and then attempted to drag him out of the car. After a short struggle you managed to drag him from the vehicle and once outside the vehicle you continued to stab him while the other young person clubbed the victim about the head and back.

[5] Members of the public ran over and scared you and the other person away. As a result of the attack the victim suffered six stab wounds, a punctured lung, lacerations to his arm, face, the top of his head and stitches.

[6] Then three days after that incident you walked into another [Service Station] in Ormiston Road by yourself. Using a sledge hammer you smashed a hole through the glass night pay window and climbed into the store. A service station worker witnessed your actions and activated a security fog cannon filling the store with fog. You tried to open the cigarette vending machine but failed before taking cash from the front counter. You climbed back through the hole in the window before running away.

[7] As your counsel points out you had said that you had committed this offending because you were bored out of your mind. You were and you still are a young man. You were 20 years of age at the time, you have just turned 21. You have been to Court before but on much less serious types of charges and have only served community-based sentences in the past.

[8] I have read a victim impact statement from the victim of the most serious assault and it makes sad and chilling reading. As a result of your actions and the actions of the young person who was with you the victim is now separated from his partner and living alone. The attack has changed his whole life completely. He feels emotionally crippled and the attack has had a significant effect on him. He was in hospital fighting for his life and he recalls his children being upset and he feels terrible that his children were so upset. After he was hit in the head with a brick and the butt of the rifle it caused some head injuries and as a result he continues to have bad headaches. It has caused loss of memory and he has a short concentration span. It has affected his mood and the way he is dealing with others particularly those who are close to him.

[9] Since the attack he has had a colostomy bag surgery which had a bag attached to him which has made it difficult to move around and bend over and has restricted his movements. Simple things like shopping is painful. He cannot carry anything heavy. Having the bag attached to him has affected him significantly and it annoys him that he has had the bag attached because he was stabbed. He has issues with a numb feeling down his right leg that stops him from walking properly and the doctors have yet to figure out how to deal with that. He does not have the strength he used to.

[10] Since the attack he has been unable to work fully. He cannot drive and only gets a percentage of the income he used to have. As I say the assault has had a significant effect on his relationship with those who are close to him. He has had to go to a psychologist and he has significant mood swings. He is now struggling financially because the reduced income makes it difficult for him to survive and also support his family. His life has changed completely and it is frustrating. He is grateful that he is alive but he is dealing with the emotions because he was not hurting anyone when he was working that morning and he was attacked for no reason. He gets very angry when he thinks about it.

[11] That is one of the consequences of what you have done. In terms of setting the appropriate starting point for sentencing I take that offence of wounding with intent to cause grievous bodily harm as the lead offence. I find that there are the following aggravating factors that were present. Firstly there was extreme violence. This was

an unprovoked and gratuitous attack involving a number of weapons and blows to the head. It resulted in serious injury to the victim who suffered six stab wounds, punctured lung, lacerations to the arm, face, top of his head and other head injuries which I have referred to. There is the effect that your offending has had on the victim and I have read out significant portions of the victim impact statement.

[12] There are the use of weapons which I have already referred to and there is the attack to the head. There were multiple attackers and to an extent the victim was vulnerable because he was confined initially at least in his vehicle. I have read carefully the submissions that have been filed by the Crown and also your lawyer Mr Cordwell, who has done a very good job can I say in terms of filing appropriate submissions and make appropriate submissions today. Both the Crown and your counsel accept that at an appropriate starting point is that of around nine years' imprisonment. The Crown submit it is in the vicinity of nine to ten years.

[13] I take as a starting point for this offending nine years' imprisonment. There needs to be an uplift for the two remaining aggravated robbery charges. Both counsel had initially filed submissions indicating an uplift of two years' imprisonment to look at the matter in totality. In my view, an overall uplift of three years' imprisonment is appropriate bearing in mind weapons were used and the nature of the weapons on small businesses. If they were being dealt with on their own, in my view, a starting point of around six years would have been appropriate for those two aggravated robberies, but looking at matters in totality I limit the increase to that of three years.

[14] The Crown had sought an uplift on account of your previous convictions. I am not going to do that. They are not extensive in number. Whilst there is some merit in what the Crown says in that there has been an escalation in your offending they are not so significant in my view that warrant an overall uplift from that 12 year starting point.

[15] Your counsel has sought a discount on account of your youth and the Crown submit that I should be wary of reducing it on account of your youth because of the escalation, and there is comment in the leading case that youth will not always provide a discount for those who committed aggravated robberies. It does seem to me when I

look at your explanation that you were bored, when I look at the letter that you have written me and I will come back to it, but it does seem as though on reflection now you can see that you did not realise the amount of pain that your offending would cause others. That is in part due to your lack of maturity, and in my view it does warrant a reduction from that overall starting point and I intend to reduce the starting point by two years' imprisonment, which reduces it to that of 10 years' imprisonment.

[16] From that there is a reduction of 25 percent on account of your guilty plea. That is appropriate. Counsel seeks to have a discrete reduction on account of your remorse as is expressed in the letter that you have provided to me this morning. I, as you are probably aware, get a lot of these letters but I view each of them as being a genuine reflection of what you are thinking and I have no reason to doubt that this does not reflect what your views are. That has to be weighed against the comments in the pre-sentence report which do not tend to express any significant degree of remorse. However, I am prepared to reduce it by a further month to reflect remorse.

[17] Mr Tekeu, I do not intend to impose any minimum period of imprisonment. You will be going before a Parole Board in due course. When you do you will still be a young man. You have got some support here from family. I know it can be a very difficult time for family members as well who see their loved ones, particularly young loved ones, having to serve a lengthy term of imprisonment. It is clear that you also love those who are close to you. You say you want to be a role model for your children and to be a good partner. You are still going to be a young man when you are released and you still have the opportunity to do that. You are going to have to make some changes. You are going to have to make some plans as to what you want to do with the rest of your life. Certainly spending time in prison is not a productive use of your time and it is going to be time away from those who you care for, but it is a consequence of what you have done.

[18] You say you will and you are prepared to turn your life around. I am pleased to read that is what you want to do. You will be given some support so that you can do that but for the reasons I have explained in this sentencing the end point of your sentence is that of seven years and five months which I impose on charge three. I

impose a sentence of three years' imprisonment on charges two and three which is concurrent.

J C Moses
District Court Judge