

**IN THE DISTRICT COURT
AT MANUKAU**

**CRI-2016-092-000121
[2018] NZDC 3441**

THE QUEEN

v

HINEMOANA ISABELLA MARIA WILLIAMS

Hearing: 22 February 2018
Appearances: B Smith for the Crown
P Eastwood for the Defendant
Judgment: 22 February 2018

NOTES OF JUDGE A M WHAREPOURI ON SENTENCING

[1] Hinemoana Williams, you appear before me for sentence having pleaded guilty to one charge of wounding with intent to cause grievous bodily harm. The maximum penalty for that offence is 14 years' imprisonment.

[2] Your guilty plea came following a sentence indication which I gave you in December last year. The indication was very much in line with an earlier indication you had received from Judge Earwaker on 3 February 2017. His and my own indication was a starting point of six years, eight months' imprisonment uplifted by four months for your list of relevant previous convictions taking the headline starting point to one of seven years' imprisonment. From that the Court would be prepared to reduce your sentence by 25 percent to reflect your guilty plea with the possibility of further deductions to reflect any other mitigating circumstances that might be brought to light at the subsequent sentencing hearing.

[3] My indication was given based on a summary of facts which the Court was told had been agreed. There was some initial discussion today about the accuracy of that police summary but I note that you now accept that it is accurate. I rely on it therefore as an accurate recounting of your offending.

[4] The facts are that on [date deleted] 2016 you were at your home together with your victim and one of your children. [Residential details deleted]. All three of you were drinking alcohol. For reasons unknown, you became angry at the victim and punched her about the head. You then dragged her by her hair from the lounge into a nearby bedroom. In the bedroom you continued to punch and kick the victim several times to her head and body. Following that you took a metal shower rod from the bathroom and then used it to strike your victim to her head and body several further times.

[5] The assault by you was then joined in by your son. He used the metal rod to strike the victim on her back, legs and arms. Your victim made it known to you that she needed to use the toilet but you refused her this request. Instead you continued your assault on her. The victim then defecated on the bedroom floor. You ordered the victim to leave the bedroom and go to the bathroom so as to clean herself. While in the bathroom you continued your assault on the victim with the metal rod as she lay on the bathroom floor in the foetal position. Your son also used a sharp meat knife to cut the victim's knees at this point.

[6] You and your son then left the address. Your victim was then finally able to leave the house and was found by a neighbour. The police were called.

[7] As a result of the assault on the victim by you and your son she received deep lacerations to the back of her head which required 16 staples. She also suffered severe bruising and welts to her shoulders, arms, back, buttocks and face. The complainant also needed a number of stitches to her knees.

[8] Your offending is aggravated by a number of features. They include the high level of violence which can only be described as unnecessary and wanton. The violence was also unprovoked and extreme. It also involved you and your son as

attackers. The offending also involved the use of a weapon, namely the metal rod. Many of your assaults were targeted at your victim's head and face. And finally the complainant received a number of serious injuries inflicted to her body.

[9] In setting the starting point I referred to the aggravating features as well as a guideline decision called *R v Taueki*¹.

[10] I turn to your personal circumstances. I have seen two reports of relevance. The first is a report prepared by Dr E M Goodwin dated 21 February 2018. The second is a pre-sentence report dated 15 February 2018. Both deal largely with your personal circumstances. Combined, they tell me that you are 39 years old. Further, that you have been in a relationship for some time and that you have four children from a previous relationship. In terms of your early childhood, you refer to it as being similar to that depicted in the movie *Once Were Warriors*. Your father was affiliated with the Mongrel Mob and your home was the venue of frequent drunken parties. You refer to yourself as being sexually abused from an early age by drunken strangers within your own home. Those experiences left you both physically and emotionally scarred. You were expelled from school at the age of 13 and never went back. Sexual abuse by others inflicted on you continued through your early adult years, and as a result of your traumatic experiences you started using alcohol, cannabis and then later in time methamphetamine.

[11] It is apparent that you need rehabilitative intervention and treatment for your drug and alcohol issues and the historic sexual abuse which I have referred to.

[12] The recommendation in the pre-sentence report is one of imprisonment.

[13] I have also seen a statement prepared by your victim. In it she recounts that she was left hospitalized for a week following the assault on her but that it took her several months to fully recover physically from the experience. She sets out that she feared that she could have been killed on the night. Your victim also noted that what affected her the most was the impact her injuries had on her family members who visited her in hospital.

¹ *R v Taueki* [2005] 3 NZLR 372 (CA) **AKA** *R v Ridley, R v Roberts*.

[14] Any sentence imposed by this Court must reflect the relevant purposes of denunciation and deterrence. It must also be the least restrictive one which is warranted in the circumstances. And the sentencing Court should not lose sight of the sentencing purposes of rehabilitation and reintegration.

[15] Your counsel Mr Eastwood submits that you are entitled to some further discounting, for your preparedness to attend restorative justice, the efforts that you have made while in custody to rehabilitate yourself and your personal circumstances.

[16] I deal first with restorative justice. I note that no restorative justice conference was convened. The reason for that was that the facilitator determined that in the circumstances it would not have been appropriate to convene a conference. I acknowledge however that there was nonetheless a willingness on your part to attend, address your victim face-to-face and apologise for your offending. Taking the starting point then which was set out in the sentence indication of seven years' imprisonment I make a deduction of one month to reflect this mitigating feature.

[17] It seems that since being held in custody you have made some efforts to address your alcohol dependency. According to your lawyer Mr Eastwood you have completed one course in prison. No certificate has been provided as evidence of that fact but I accept at face value your claim that a course was completed. The course however was not a lengthy one being only a day long course and therefore the discount I give you for this mitigating feature can only be modest. The discount for your efforts to rehabilitate is one month.

[18] I accept the information contained in the pre-sentence report and Dr Goodwin's report. Your early childhood experiences were indeed appalling. They are largely the reason why over time you suppressed your feelings with alcohol and drugs. Alcohol was a contributing factor to your offending on this occasion. Therefore, I am prepared to make some meaningful reduction to reflect your personal circumstances. The meaningful reduction however, has to be tempered by the importance of personal responsibility for one's own actions. The discount I apply for your personal circumstances will be nine months.

[19] Mr Eastwood submitted that there should be some further discounting for remorse. I have had the benefit of reading letters by you to the Court and your victim. Your letters ask for forgiveness and an awareness on your part that you had no right to do as you did. Further that you take full responsibility for your offending.

[20] The higher courts have been very clear to state that any discounting for remorse greater than that which is inherent in a guilty plea should be justified. The difficulty I have in accepting Mr Eastwood's proposition stems from the comments made by you to Dr Goodwin as well as the pre-sentence report-writer tendering to minimise or justify your behaviour. Those comments suggest that your offending only commenced when your victim defecated on the floor. I do not accept that proposition. In my view based on the summary of facts the assault on your victim started well before that incident.

[21] I note also in the report by Dr Goodwin that you had entered your guilty plea to this charge simply to get the matter over and done with and so as to take the "rap" for your son who you portrayed as the principal offender. I do not accept that proposition either. In my view you were the principal offender. Accordingly, I make no adjustment for remorse, because in my view the contents of your letters simply reflect remorse for your present situation rather than for the offending.

[22] I do make a further discount for your guilty pleas of 25 percent or the equivalent of 18 and a half months.

[23] Once all the discounts which I have referred to are made the end sentence for you then becomes 54 and a half months or four years, six and a half months' imprisonment.

[24] Ms Williams, the end sentence for you will be four years, six and a half months' imprisonment.

A M Wharepouri
District Court Judge