

**IN THE DISTRICT COURT
AT GORE**

**CRI-2017-017-000436
[2018] NZDC 9510**

NEW ZEALAND POLICE
Prosecutor

v

DREW ANDREW RIORDAN
Defendant

Hearing: 9 May 2018
Appearances: Sergeant P Stratford for the Prosecutor
B Dawkins for the Defendant
Judgment: 9 May 2018

NOTES OF JUDGE A D GARLAND ON SENTENCING

[1] Drew Riordan you appear before the Court on a charge of causing harm by posting a digital communication. The facts are as set out in the summary. On 2 November last year the victim wrote a story that was published by [her employer]. On 8 November you were made aware of that story and you took exception to it. You then began posting comments on your Facebook page against the victim. I am not told how widely accessible your Facebook page was to others however Mr Dawkins informs me that it was only available to your authorised friends. The problem for you of course was that you had no way of controlling that information once you realised on that media forum. It appears that one of the person who did have access to it must have copied it and forwarded it on. That could have been forwarded on to anyone. It was in fact forwarded on to the victim.

[2] One of your postings showed a picture of the victim with a watermark across it stating, "Want dead, not alive. \$10,000 reward." I have seen a picture of that posting. Another posting stated, "I bet there's no bush telegraph tonight when she's lying dead after being run over by a guy heading to the station." I am told these posts have been viewed by numerous people both nationally and internationally. The victim in this matter contacted police after being informed by an associate and as a result she feared for her safety. When you were spoken to by the police you admitted what you had done and in explanation you said it was a silly thing to do when you were intoxicated.

[3] The pre-sentence report writer tells me you are 45 years of age. In the report I was advised that you told the probation officer you posted it online because you thought it was funny. You told the probation officer it was a stupid thing to do as you have nothing against the victim who was unknown to you. You acknowledged the distress your actions would have caused the victim. You said you were willing to pay the victim reparation for emotional harm. The probation officer said given there was no interpersonal relationship with the victim and you denied alcohol was a contributing factor, there were no offending-related factors identified that could be addressed by way of a rehabilitative sentence. The recommendation was community work.

[4] The problem with the information you provided the probation officer was that it was untrue. You misled the probation officer and I think deliberately so. The victim impact statement informs me that she had known you for [duration and details deleted]. She said that this offending has caused extreme stress to her and her partner. [Details deleted]. She says she is now fearful of going outside, she used to walk to town for exercise but now she feels unsafe.

[5] Although the threatening posts have been removed she understands that there have been some other harmful statements made by you about her. She recently prepared and offered to the Court a very lengthy victim impact statement. I am not going to refer to it in detail because there is quite a bit of material in that victim impact statement that ought not to be there in relation to this alleged offending, but what I do

take from the extended victim impact statement is that there has been ongoing stress as a result of issues between you and her.

[6] Given that you had not been truthful with the probation officer, I asked the probation officer to come here to Court today so that he could have the opportunity to read those victim impact statements and then re-interview you. That has occurred. The probation officer has said that as well as community work, supervision might be an appropriate outcome. Apparently you do not qualify in terms of departmental criteria for intensive supervision.

[7] However I am advised that whatever rehabilitative interventions could take place on supervision could also take place on intensive supervision. It may be that a short rehabilitative programme which lasts six weeks which is an intensive intervention could be offered to you. I certainly support the probation officer with that suggestion. In my view, in this particular case it is most appropriate that that kind of intervention should be offered to you. The benefit of a sentence of intensive supervision would be that I would be able to judicially monitor the sentence. If I later found out that you were not complying then I can require you to come back in front of me and be re-sentenced.

[8] The maximum penalty for this offence is two years' imprisonment. Mr Dawkins acknowledges that intensive supervision with the ability to undertake departmental programmes might be of assistance to you, to let go of the issues between you and the victim. Community work I am told will be difficult. You offer to pay reparation in the sum of \$2000 to the victim today by way of emotional harm reparation. I understand there is in existence a harassment order to help protect the victim. Mr Dawkins asked that I consider imposing a fine rather than imposing a term of community work.

[9] This offending is serious. The comments posted were both of a sinister nature implying that you wanted the victim dead and that she might meet an untimely death on the road. There were two such postings. I am advised that these postings in fact have been broadcast widely. Of course that has the potential of causing maximum harm to the victim. This offending was not only calculated it seems to cause harm to

the victim but it has done just that. The victim impact statement makes that abundantly clear.

[10] You do have a significant offending history but I note you have no significant convictions for violence or for threats of violence. You have admitted your offending behaviour by a guilty plea albeit that came quite late in the piece. I was minded to impose a sentence of 250 hours' community work however I accede to Mr Dawkins' request that I do not impose community work. Instead I am going to impose a fine. The maximum fine that I can impose is \$50,000 however I must keep things in proportion. Taking into account both aggravating and mitigating factors and taking into account your offer of reparation in particular, you are convicted and fine the sum of \$2000 plus Court costs of \$130.

[11] I also impose a sentence of 18 months' intensive supervision. I impose the following special conditions. You are to attend and complete a departmental short rehabilitative programme to the satisfaction of the probation officer and service provider. You are to undertake assessment, counselling and/or treatment for such other offending relating issues as directed and to the satisfaction of the probation officer. In imposing that sentence I indicate that because you do have tractor work which I know has peak periods, I would ask community probation to try to work around those difficult periods so that you are able to take full advantage of this rehabilitative sentence. That sentence will be judicially monitored by me.

[12] In addition you are ordered to pay reparation to the victim for emotional harm in the sum of \$2000. That is to be paid immediately.

A D Garland
District Court Judge