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**IN THE YOUTH COURT
AT TAURANGA**

**CRI-2017-270-000056
[2018] NZYC 182**

THE QUEEN

v

[PP]

Young Person

Hearing: 26 February 2018

Appearances: H Sheridan for the Crown
V Scott for the Young Person

Judgment: 26 February 2018

ORAL JUDGMENT OF JUDGE C J HARDING

[1] [PP], you appear today for sentence having quite some time ago, in September 2017, not denied two charges; one of aggravated robbery and the other of robbery. You have been remanded in custody since 27 September.

[2] There have been a series of reports written in relation to you. The Court is in possession of a s 333 report, a social worker's report and reports as to your progress during your remand in residence.

[3] Your advocate Ms Scott, in December, raised serious concerns that there had been no material assistance for you despite the length of your remand. Since then there has been some assistance. The care team describe an awesome shift with you participating well with the programme, being polite and engaging with staff, and you have seen a psychologist Mr Johnson.

[4] Mr Johnson expresses concern at the prospect of your being in a fully custodial environment when there is a significant ongoing need for you to receive psychological counselling. The social workers report and plan prepared last year was regarded as inadequate in that there was insufficient to reassure the Court that the factors identified for you, which are serious and ongoing, would be adequately addressed.

[5] It turns out today that the only potential community-based resources for that are available through a supervision with activity arrangement, not a supervision arrangement consequent upon a supervision with residence order.

[6] The Crown expresses serious concerns about public safety. Ms Scott submits that you have spent as much time in custody as many young people who have received a sentence; that it is inappropriate that you spend further in custody and that the Court should be contemplating a sentence which will provide therapeutic rehabilitation, as well as protection for the community, rather than a sentence which penalises you any further.

[7] I am required to impose a sentence which is consistent with the purposes and principles of the Act and which is the least serious or the least significant sentence which will adequately respond to your offending.

[8] The Crown submits that you should be convicted and transferred to the District Court. There is clearly jurisdiction to convict and transfer you because the nature and circumstances of your offending are such that if you had been an adult convicted in the District Court a sentence of imprisonment would clearly have been required.

[9] This was serious offending with long-term consequences for those victims. You have significant difficulties which have been canvassed at length in the reports before the Court. It seems that you have turned some sort of a corner but there is a very long way to go before you can be said to be safe within the community. There has been a family group conference.

[10] You are nearly 17 years of age, turning 17 this [year]. There is a limited timeframe for provision of assistance to you if you stay within the Youth Court. There is also a limited prospect of your receiving the sorts of assistance you need within the programmes because they are dependent upon a supervision with activity order which was not in anybody's contemplation in December.

[11] If you were convicted and transferred to the District Court a number of possibilities would be open. Those would include supervision or intensive supervision potentially for two years, a longer period that could be acquired in the Youth Court and for at least a part of that an electronically monitored sentence such as community or home detention. Such a process would have you not in custody in the conventional sense and potentially able to receive intensive supervision over an extended period.

[12] In my view, a conviction and transfer at this stage is the appropriate outcome on both charges. You will be convicted and transferred for sentence to the District Court.

[13] I direct that all of the material in the form of reports available to this Court be made available to the Probation Service in their preparation of a pre-sentence report for you. The Crown will continue to be involved and is fully aware of the background.

[14] Given that you are presently in custody I expect that a remand on the present basis in the care of Oranga Tamariki–Ministry for Children will be possible, although I note that consent is required. Consent is given so your remand will be in the care of Oranga Tamariki–Ministry for Children at this time.

[15] [PP], you are remanded in custody for probation officers report and sentence in this Court on 26 March at 2.15 pm.

[16] I direct that you appear in person.

C J Harding
Youth Court Judge