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**IN THE YOUTH COURT
AT HUTT VALLEY**

**CRI-2017-296-000044
[2018] NZYC 338**

**THE QUEEN
NEW ZEALAND POLICE**
Prosecutors

v

[RS]
Young Person

Hearing: 16 May 2018

Appearances: C Hislop for the Crown
J O'Meara for the Prosecutor New Zealand Police
L Sziranyi for the Young Person

Judgment: 16 May 2018

NOTES OF JUDGE M N E O'DWYER ON SENTENCING

[1] [RS], you, like your co-defendants, have now accepted responsibility for some of these offences and have been found responsible for the robbery on [date deleted] last year.

[2] The charges are the robbery, the burglary on the same night, unlawfully getting into a motor vehicle, and in your case, a burglary in [date delete] 2017 that pre-dated the robbery and offending on [date deleted].

[3] In respect to the robbery, as you have heard me saying to [TU] and the other young people, you all went first of all to the address in [location deleted], where you got into the house by a window. You left and then you returned, got into the house, then an alarm went off. When the alarm went off, you all got out of the house, returned to the car, and were able to leave the address.

[4] You went from there to the [store name deleted] in [location deleted]. You were the young person who saw the victim at the cash desk and saw the money in her wallet. You saw an opportunity there to take money from her. You later went back to your associates and, with them, made a plan to follow her by car to her address. That is what you did. You followed her. She parked her car in the dark driveway at the back of her address, and there she was confronted by [SS] and two others.

[5] It is not clear whether you were one of the two that were standing there near her. You said to the police that you had not got out of the car. But, it was either you or [TU] that was standing there.

[6] After the bag had been taken by [SS], the three of you returned to the car and you all drove off. You shared the proceeds as well as the other items in the bag between you.

[7] As I said, you admitted to the police being present during the robbery but denied getting out of the vehicle.

[8] I have spoken about the victim impact. I am pleased to hear that that was discussed at some length at the family group conference in January, because clearly it

has had a dreadful impact on that lady, and it is having an ongoing impact on her. You have heard about how frightened she is, anxious at nighttime, afraid that you and others might come back to her house. She has lost confidence in people and she is having to handle other health issues that are very difficult. So, it has been a dreadful experience for her, probably well beyond, I am sure, what you imagined.

[9] You have written an apology letter to her, and today I have seen the essay, the longer piece of work that you have written. In that, you talk about understanding how it has affected her and many other things. I hope it will help her that she receives a letter from you and that she, through the victim's adviser, gets to understand that you genuinely are sorry for what you did and that you do think about this and have thought about it a lot.

[10] In respect to the reparation, your mother has paid the reparation, both to the victim of the robbery and in respect to the burglary. I will deal with the reparation on the other burglary in a moment.

[11] What is significant in your case is what has changed since you moved to [new city deleted]. All the reports speak of you doing well, working well on the G&H training and particularly in the [details deleted] area. Your attendance has been good. Your engagement has been good. You work hard. You are ahead of your class in terms of your classwork. So, you have got ability. If there is one positive thing that may have come from all of this, it is that perhaps you have realised that you do have ability and that when you put your mind to things and you do not get distracted by poor choices that other people are making, poor choices that you made, that you can do well.

[12] You have spent time in custody. I accept what I have heard in respect to you, that that time in custody was extremely difficult for you and that it was a wake-up call. I often hear that being said, but I think in your case it really is genuine. I think that that time you spent in residence brought home to you just how negative your life could become if you went down the track that the young people who end up in residence have gone down.

[13] The reason why I am saying that is because, as I say, since you have moved to [new city], there has been a dramatic change. There has been no further offending. You have complied with the bail conditions since moving to [new city]. That is in contrast to what was happening before you moved to [new city], because you were breaching your bail so much, there were constant breaches of bail and the police were constantly concerned about that. But the move to [new city] has made a big difference and a big change.

[14] This is serious offending. Robbery is a very serious charge, and this was a robbery of a vulnerable older person in circumstances where she was intimidated and frightened. So, this was on the serious end of the type of robbery that it is. You saw an opportunity, as I said before, and then you acted on it with four other people. I hope you now realise just how much that has badly affected that lady.

[15] You were only 15 at the time. You were one of the youngest ones. I accept that you, therefore, were somewhat influenced by the older ones in the group. But you did have quite an important role in it.

[16] You have complied fully with the family group conference plan. You have done it in a timely way. There has been no breaches. The recommendation from Oranga Tamariki, which is not opposed by the Crown, is for a discharge on all charges.

[17] I am prepared to grant that, but I am only prepared to grant it because you have proven not only that you would complete the plan, but that you have done it efficiently and well and that you have not had any breaches for over all these months. So for those reasons, I am convinced that you have earned a s 282 discharge on a very serious group of charges.

[18] If you had these against your record at your age, they would be a very serious mark against you, and your hopes and plans to become a builder would be all the more difficult. What I want you to do is to not forget what you have learnt through this process. Never forget it.

[19] Your goal to become a builder will take a lot of hard work. You will have to prove yourself as an apprentice, which is a great deal of hard work. You will have to prove your honesty, your reliability, your ability to work hard and be a reliable person. You have got the chance to do that now.

[20] In respect to the other burglary charge, I think it is appropriate and proper that reparation is paid, because quite valuable goods were taken in that burglary, as well as cash, and it is only right that those victims should have some reparation for what they experienced. And so, reparation, which is offered by your mother for you in respect to that of \$300, is accepted.

[21] I want to say one thing to you, [RS], before I finalise this, and that is – it was referred to really by Ms Sziranyi – in respect to [TU]. I will be sentencing him in due course. You are younger than him. You have shown that you are able to make your own good choices since you went to [new city], and it is going to be very important that you keep to that and not go down any track if you are encouraged to do that by anyone else. So I hope you will remember that.

[22] So in respect to all these charges, you are now discharged under s 282 from the Youth Court.

[23] In respect to the [date deleted] 2017 burglary, there is an order for reparation. I will make that order against your mother, your parent and guardian. She is the person who is going to be able to meet that; you are not in a position to meet that, given your age. And so, \$300 to be paid within two months.

[24] So [RS], that completes the sentencing. I think you should be thanking your lawyer and you should be thanking your mother for all the help she has given you. You need to make her proud of you.

M N E O'Dwyer
Youth Court Judge