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**IN THE YOUTH COURT
AT MANUKAU**

**CRI-2017-292-000639
CRI-2017-292-000171
CRI-2017-292-000284
[2018] NZYC 371**

NEW ZEALAND POLICE
Prosecutor

v

[LL]
Young Person

Hearing: 21 June 2018

Appearances: Sergeant P Devane for the Prosecutor
A Ulu for the Young Person

Judgment: 21 June 2018

NOTES OF JUDGE F J EIVERS ON SENTENCING

[1] This is an early release hearing today in respect of [LL]. [LL] is 16, [age details deleted].

[2] [LL] is currently at [a youth residence]. He was ready to come for his early release hearing today, but unfortunately, his aeroplane could not get off the ground because of fog. I had his matter called in the list anyway, and we spoke to [LL] and his residence caregivers by telephone from the residence.

[3] [LL] had the opportunity to speak in private with Mr Ulu to discuss a couple of issues that arose out of the plan and its implementation, in particular around placement.

[4] Mr Ulu then confirmed that [LL] would like his early release hearing to proceed today and further, that he is happy for that early release hearing to be conducted by telephone.

[5] We have therefore conducted this hearing by way of telephone. Each of us has stood up and spoken directly into the telephone to ensure that [LL] can hear everything and understand everything that is being discussed today, and I am confident that he has.

[6] There is an early release report which was provided to me by, [the residential case leader]. It is a full and comprehensive report and it covers all the requirements of the Act.

[7] [LL] has done very well in residence. The structure of routine has served [LL] well. There has been no absconding or behaviour or non-compliance of any significance. There was one admission to secure care which arose out of an argument between [LL] and another young person on the basketball court, but that was very quickly resolved and there has been no re-occurrence of that. There is one other minor incident which was noted because it spoke about the frustration that [LL] had when he was disappointed, but otherwise [LL] has done very well and is to be congratulated on his compliance and behaviour.

[8] In terms of education, I must say [LL] you have done exceptionally well to go to residence and achieve your NCEA Level 1. It is something which is awesome and that is not an easy feat, and I am going to ask everybody to give a round of applause to you for that. You will find [LL] that because you have NCEA Level 1, it is going to open doors for as you go through life you because people will think, “[LL] has got NCEA Level 1, he must be a smart young man, I am prepared to give him a go.” That is the benefit of that sort of qualification and to have that certification ready to give to potential employers for example, as you grow older. Your last school report says that you were confident in school, and you understand the value of education, and of course education never stops. [LL] I just want to say as an older person, that you can go right throughout life and take advantage of education opportunities as and when you choose, but you have made a good start.

[9] You are described as capable, independent and a perfectionist at times and, of course, that can lead to frustration when things do not go as you want them to and it is just a matter of learning how to cope with that, but to be proud of your work and to strive to be the best you can be is good trait.

[10] You have told teachers when you are not able to work on a task because it is something you do not understand, or something similar, and that is good too because that is the only way you can learn. You have done well with your numeracy and literacy credits.

[11] It says in this report [LL] that you have excelled in the classroom as a model student for most of the time and that you contribute to class discussions with valuable points. You are very competitive. Again, that is a good character trait to have as long as you know how to use that wisely, that you are fully active during sports PE classes and have great sporting ability in touch rugby, soccer, touch ball and recently playing badminton. You have participated in all recreation programmes within the residence and you have shown good sportsmanship. So well done, in terms of that education opportunity.

[12] Anger management and alcohol and drug treatment has been looked at. There were some concerns about your use of methamphetamine before going into residence.

Mr Hughes and I just spoke about that. You say that you can manage that. I hope you can [LL] because alcohol and drugs, right across the population it does not matter who you are or where you are, what colour you are or where you come from, if you make alcohol or drugs your master, it is going to rule you and you are not going to be able to achieve what you are capable of.

[13] I note that you were reluctant to have A&D therapy. That fact combined with the therapist being unwell on few occasions and those sessions clashing with kapa haka and other things that you were doing, meant that the therapy is not completed to the degree where we might have liked it to have been. As Mr Hughes noted, you say that you know how to manage this. I sincerely hope that you will be able to manage that once you are out of this structured regime.

[14] You have in the main done very well in your three months in the Programme. The only concern of is the non-completion of counselling and alcohol treatment which has been explained and I hope will not be too much of a disadvantage for you once you are released.

[15] There is mention in the report [LL], that you did not want to be released early, however you have spoken to Mr Ulu today and he confirms that you do seek early release today. One of my concerns, however, when looking at the papers and documents was the lack of placement for you. That is not putting the blame on anyone, your social worker has worked hard to find a place, it is not easy to find a placement for a young man like yourself. There isn't anywhere for you to go with your whānau at present, and the only placement that could be found is at the Lighthouse.

[16] I agree with you that the Lighthouse is not an appropriate long-term placement for you and so every effort will be made within the next two weeks to try and move you to the next placement and help you get into an independent living placement. It is incorporated into your supervision order. What I am concerned about and what Gus is concerned about, and the others in the room, is that if you go from a structured routine like you have in residence, and placed out into the community to fend for yourself, then that is too hard to manage. I know you are smart, I know that you

believe that you are ready for independent living but what I want to make sure of [LL], is that you have good support as you make the transition to that.

[17] Mr Ulu tells me that you are agreeable to stay at the Lighthouse until Gus finds the next placement for you. He says he will speak to you daily if necessary about where he is at for that so that you are up to speed and you know exactly where your Plan is moving.

[18] I therefore grant you early release today.

[19] I make a supervision order, that will run for six months on these terms and conditions:

- (a) You are to stay where directed by your social worker, that is Gus. There is a curfew to that address between seven in the evening and seven at night;
- (b) You are to attend the MYND Programme and Gus has written in the order that the emphasis is for you to enter the work place. Mike is here from MYND, in the courtroom and he knows that is what you want to do. You are looking at [detail deleted] and would like to get a job and I think that's cool. If you can get yourself a job that would be awesome;
- (c) You are to engage in an alcohol and drug programme as directed by Gus;
- (d) You are not to associate with [names deleted];
- (e) You are not to consume any illegal drugs or alcohol for the duration of this order and I think we should add there, synthetic drugs as well.

[20] I am going to judicially monitor you [LL]. The Court wants to make sure that you are going to get a placement that is suitable so I am going to monitor you, it may not always be me, it may be one of the other Judges in this Court but this is just to get

you to come back to talk about the programme and any issues you may have under the order.

[21] I commend you on the good work you have done to date and I want to thank all the kai mahi involved at the residence who have worked hard to support you.

[22] I will get you back to the Court in two weeks, Thursday 5 July at 10.30 for monitoring. Kia kaha.

F J Eivers
Youth Court Judge