

**IN THE DISTRICT COURT  
AT HAMILTON**

**I TE KŌTI-Ā-ROHE  
KI KIRIKIROA**

**CRI-2017-019-006896  
[2019] NZDC 1501**

**THE QUEEN**

v

**[KAURI MILFORD]**

Hearing: 30 January 2019  
Appearances: A Alcock for the Crown  
R Boot for the Defendant  
Judgment: 30 January 2019

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**NOTES OF JUDGE R L B SPEAR ON SENTENCING**

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[1] [Kauri Milford], you are for sentence today on one charge of wounding with intent to injure and another charge of injuring with intent to injure. The complainant in respect to this offending was a woman with whom you had been in a relationship for some [less than three years] and someone with whom you have [children]. However, at the time of this offending [in 2017] the two of you were living separate and apart from each other.

[2] At about 5.30 pm on [date deleted in 2017], the complainant was at her home with family members and your [child]. You arrived at that address uninvited, as I understand it, to see your [child]. Matters quickly turned into an argument between the complainant and you. This developed to the point where you grabbed hold of the complainant's left hand and bit down hard on her little finger. You then left.

[3] When I say you bit down hard on the little finger you did so with such force that it caused a significant laceration to that finger as easily depicted in the photographs that have been produced and presented to me. That is serious offending of its type. As Ms Alcock for the Crown has correctly stated, the risk of infection of biting another person is significant. Fortunately, it appears that medical attention was able to be provided and there was no lasting injury of a physical nature.

[4] What aggravates this offending substantially is that the police arrived after you left the address. They subsequently located you and issued you with a police safety order. That required you to stay away from the complainant for a period of five days. However, just a matter of hours afterwards at around midnight that same night you returned to that house and started to abuse the complainant. At some stage, you pulled her off a chair by her hair, threw her to the ground and repeatedly stomped on her head.

[5] You then carried on this attack by grabbing her around the throat and strangling her to the point where she was unable to breath and she passed out. Fortunately, family members were present at the time and they were able to intervene. That saved the complainant, clearly, from being injured far more severely than was indeed the case.

[6] The material presented to me indicates that the complainant was left with a laceration to her finger where you bit her and also serious and significant bruising to her face again as depicted in the photos.

[7] You are [over 25] years of age and you are no stranger to the Courts. You have previous convictions from 2011 for violent offending and, in particular, for injuring with intent to cause grievous bodily harm, assault with intent to injure and assault for which you received a total sentence of three years' imprisonment and a first strike warning. You have subsequently received your second-strike warning. That this offending happened after the first strike warning means that the sentence of imprisonment that I will impose on you today is to be served by you without parole. That is one of the consequences of repeated, recidivist violent offending.

[8] This is serious violence and has to be met with a condign sentence. It must be met by a sentence that emphasises to you exactly how serious it is, that holds you fully

to account for what you have done for the harm that you have caused this complainant and that does its best to deter you from offending in this way in the future. There are a number of aggravating or significant features to the offending:

- (a) The fact that you returned to the house after being served with the police safety order.
- (b) That your unprovoked attack upon the complainant involved stomping on her head and strangulation.
- (c) The earlier offending involving the biting of the finger.
- (d) The fact that this was in the complainant's home a place where you had no right to enter uninvited and particularly because the police safety order was a response to the earlier incident.

[9] All that convinces me that this offending needs to be placed at the bottom end of the third band in the leading authority of *Nuku v R*<sup>1</sup>. I adopt a starting point of three years' imprisonment for the injuring with intent to injure charge.

[10] If I was dealing with you just for the wounding charge by biting the complainant, I would take a starting point of two years' imprisonment. So, just adding those two together that brings me to a sentence calculation point of five years' imprisonment. But of course, it is not just a question of adding one to the other. It is also important to recognise the totality of the offending and in that respect, I reach the calculation point of 54 months or four years and six months' imprisonment.

[11] There are previous convictions and they have to be recognised by an uplift of six months because there is a similarity between the offending that took place back in 2011 and the offending that took place on this occasion with the stomping to the head. That brings me to a sentence calculation point of five years' imprisonment.

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<sup>1</sup> *Nuku v R* [2012] NZCA 584.

[12] You say you are remorseful and you say that you want to do courses. Those would have been dealt with in 2011 or at least on your release from prison. Yet here you are again having offended again in such a substantial way. The injuries to the complainant are not as severe as could perhaps be expected and in that respect, you are fortunate indeed as of course is the complainant.

[13] Stomping to the head is such an inherently dangerous act, as is strangulation, that you could well have been facing far more serious charges. Indeed, I note that the charge initially levelled against you was one of injuring with intent to cause grievous bodily harm which carries with it a maximum of 10 years' imprisonment and that would have required me to adopt a more significant starting point than I have.

[14] I question the sincerity of your expression of remorse that appears to be more to do with the remorse for the position that you are now in.

[15] The probation officer says that you have been unemployed for a long time, you have no leisure interests and your life lacks structure and purpose. You have, however, had an association with one of the local street gangs although there was no active gang involvement in this case. You are someone who has to understand that you are going to serve very serious time in prison unless you come to your senses and realise that there is better way to live. But that is a matter for you. All this Court can do is respond to what is in front of it and that is a situation where there has been very serious and repeat offending indeed dished out to a woman who clearly was vulnerable and no physical match for you.

[16] As for your pleas of guilty, I have listened carefully to counsel's arguments in that respect. This offending of course occurred back in October 2017 and it has resulted in you being in custody on remand for some 13 months. However, you initially pleaded not guilty to this offending and it was not until 10 September 2018 that you changed your plea. Mr Boot contends that this has come about because the Crown was prepared to accept this matter being disposed of by these two charges and that the more serious charge 2 in the Crown charge notice of 18 April 2018 was not pursued. I think there is something in what he has said. For that reason, I am going to allow you credit for your guilty pleas of around 18 percent which is a little higher

than what the Crown considers appropriate but broadly in line with what Mr Boot has contended for.

[17] So, on charge 3 having regard to all matters, you are sentenced to four years' imprisonment and on charge 1, 18 months' imprisonment. When the parole board come to consider your release, there is a pressing need for it to give consideration to a domestic violence and anger management programme.

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Judge RLB Spear  
District Court Judge

Date of authentication: 27/02/2019  
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