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**IN THE YOUTH COURT
AT MANUKAU**

**CRI-2016-292-000489
[2018] NZYC 172**

**NEW ZEALAND POLICE
Prosecutor**

v

**[AF]
Young Person**

Hearing: 20 March 2018

Appearances: Mr Regan for the Crown
Ms Cherrington as Youth Advocate
Ms Ratima for the Young Person

Judgment: 20 March 2018

Oral Judgement of Judge G F Hikaka – Convict and Transfer

[1] [AF], you have two sets of things before the Court today. The first that I will deal with now are the Youth Court charges. There are 24 charges that you were on an order for. You re-offended while on that order. Even though your re-offending meant you were in the District Court on the new charges, there was still some hope that with a bit of application on your part, the Youth Court matters might be dealt with by way of a notation, a discharge under s 238(a). That was, in part to recognise the length of time you had been in the Youth Court on those charges. They span from 1 July 2016 through to 12 June 2017.

[2] That indication was given even though you have been on Family Group Conference plans, you have had two supervision orders, a community work order, a mentoring order, supervision with activity orders and two supervision with residence orders. The best that can be said of how you managed those was your early release on one of the supervision with residence orders, but for the most part you have just not stuck with any plan. You have found it very difficult, it seems to stay out of trouble, to do the right thing and take the guidance that was provided to you.

[3] There are a number of things in your background, I am not overlooking that. There has been quite a lot of consideration of your personal circumstances and the situation you grew up with and things like ADHD, PTSD and FASD. All those letters refer to issues that you have ended up as a result of your early life experience. I am not ignoring any of that.

[4] The main issue for today is whether to discharge your Youth Court matters or convict and transfer to the District Court. At the time that you were given that indication or that encouragement to stick with the plan, you had I think five charges in the District Court. Since then you have two more. One of them is very concerning - aggravated robbery on 11 March. Today is the first time that charge has been in Court.

[5] When I look at that, and at all the things that have been tried in the past, I have come to the conclusion that once your District Court charges are finalised, everything will need to be looked at everything, all the things that have happened to you over the course of your life, the way you have responded, the sort of trouble you have got into

and where you go to from there. To be fair, the Youth Court has run out of options for you. You cannot say the Youth Court has not tried but being born on [date deleted] 2000 you are outside the Youth Court jurisdiction and there are only a few months left before any order would expire.

[6] I have looked at a schedule of all of your Youth Court offending. When it comes to some of the less serious charges, for example wilful damage, escaping custody and perhaps unlawfully interfering with motor vehicles, those things happened around the times of more serious charges, for example interfering with motor vehicles at the time of an aggravated robbery charge. Wilful damage was at a time of assault with intent to injure, so they are tied in. Therefore I am not inclined to split them off now and deal with them by way of a discharge today.

[7] Part of the reason for that is that the bigger picture needs to be looked at when it comes time for you to be sentenced. I have considered all the factors in s 284 of the Act, including the nature of the offending and your personal circumstances. I have looked at how you have responded, how your family has responded to all your offending, the measures they have taken. I have considered information about the effect on victims and as you know, the Youth Court has tried to look at things that might underlie your behaviour which leads you to get into trouble. So far nothing tried in the Youth Court has worked.

[8] I am saying this because I do intend to convict and transfer on all the Youth Court charges. That is not the end of it. They will be taken into account when the bigger picture is looked at in the District Court. I do not want you to think that somehow that has sealed your fate. It has not. There is still a way to go. I note the letter you have provided to me today talking about how you have gone through a lot in the past, that you have had a lot of time to think about your actions and what you have done in the community and you need to start making good choices. All those things are true and it is a shame it has got to this stage of your life where it looks like you are ready to set your life straight. That letter will be looked at again at a later stage when your District Court charges are sorted out.

[9] On all your Youth Court charges, you are convicted and transferred to the District Court for sentence. These charges will follow along with your District Court charges.

G F Hikaka
Youth Court Judge