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<http://www.legislation.govt.nz/act/public/1989/0024/latest/DLM155054.html>

**IN THE YOUTH COURT
AT CHRISTCHURCH**

**I TE KŌTI TAIOHI
KI ŌTAUTAHI**

**CRI-2017-209-000280
[2018] NZYC 589**

NEW ZEALAND POLICE
Prosecutor

v

[CA]
Young Person

Hearing: 16 October 2018

Appearances: Sergeant G Nilsson for the Prosecutor
E Bulger for the Young Person

Judgment: 16 October 2018

NOTES OF JUDGE J A McMEEKEN ON SENTENCING

[1] [CA] you were involved in really serious offending in [date of offending deleted] last year when you were 13 years old. You were at a party and you were drinking and people were asked to leave and [VZ] was one of the adults in a sense I think walking you out, walking you and some others out. For some inexplicable reason you were carrying a hammer and you hit [VZ] over the head with it. He suffered really serious injuries including a fractured skull and his victim impact statement is just terribly sad to read. As he said it feels as if his whole life has been taken from him and everything in his life has been affected by what happened on [the date of offending]. He cannot work anymore. He cannot sleep well. He has lost his sense of smell. His memory is affected. He was [employment details deleted]. [VZ] said, and I quote, "My life is ruined."

[2] You admitted your involvement in this offending. You admitted it the first time you were in Court. You had a family group conference, or two of them and then Judge Walsh sentenced you on 24 October last year, which is almost a year ago, and he did that on the basis of a report that Ms Hanson wrote and she did an awful lot of work in this report and she was able to persuade Judge Walsh that he should give you a chance.

[3] When Judge Walsh sentenced you he had a copy of a letter from [VZ]. He is not able to write anymore but he dictated the letter. What he said was written by someone who was able to do that for him. Judge Walsh talked about that letter which I have also read. It is just an amazing document and I think all of us, everyone that has been involved in your case has learnt something from [VZ]. He was an innocent man and he was seriously harmed and yet he has shown you so much compassion and so much forgiveness. Even now, even now when it is clear that his injuries are not going to get a whole lot better he still wants you to do well. It has been humbling, to know through his letters, a man like him. He did not want you to be locked up. He felt that that would ruin your life. In spite of what you had done to him he was interested in you and your welfare. He said that he would like to see you put this behind you and he said he would like you to grow into a useful law-abiding person who would contribute to society in a positive way. He wants you to keep out of trouble and he wants you to have a future.

[4] As a Judge I get to read very few letters like that. Most times people who have been harmed they just want vengeance or revenge and punishment. [VZ] wants you to learn from this terrible thing and do well and I think that that has been, like I said, an amazing lesson for all of us. I also note that he was at your family group conference in September and that you and your whānau apologised to him. In October, almost a year ago exactly, Judge Walsh approved the informal plan for you.

[5] It has taken a long time as everyone said. You are now [under 16 years old] but you are still a very young man. What is important are all of these things. You have finally done it, you have done it. You have done everything that has been required of you. You are achieving on the sporting field. I think [VZ] will want to know that. What is really, really important is you have not re-offended since then. That is really impressive [CA] because it has been difficult, you have been under lots of pressure. At 13 you obviously thought you were the man. You were out drinking and partying on the weekend so that was the lifestyle you had then. You have not reverted back to that. You have not got drunk and done anything so stupid that you have had the police involved again. That is really impressive. You have also written to [VZ] as he wanted and told him what you are doing and I have just read the last letter that you have written to him. It is a very good letter for [an under 16-year-old].

[6] I have been seeing you now for over a year. I first saw you in September. It has been over a year [CA] I have been seeing you on and off. You have grown. You have grown physically but you have also grown mentally. You engage more. You are more involved in everything that is happening. You have really grown up.

[7] You have handed up a letter today that has talked about what you did, participating and serving homeless people and that has had an impact on you as well. Could you send that to [VZ] as well with your letter? Because I think that is important, I think that is going to make [VZ] feel as though [CA] has really taken on some of what he is saying and he is trying to make a difference. [CA] I have to decide today how things are going to end up.

[8] You were facing a charge of wounding with intent to cause grievous bodily harm. The maximum penalty is 14 years' imprisonment. It is one of the most serious

violent offences and adults who are convicted of something like this struggle to get into Australia because you have to say what offences you have been charged with. They would struggle to get into America or Canada because this is such a serious offence of violence. If you had this on your record, even your Youth Court record, it would be there forever and it would have an impact on you.

[9] I remember years and years ago when I was a Judge up North the Māori All Black team were going on a trip to Canada, this is like 14 years ago, probably more, and two of the players were all ready to go but days before they were due to leave two of them were told the Canadians would not let them into Canada because they had some convictions from years ago.

[10] You never know what is going to happen in your life, you never know. You might want to be a social worker. You might want to be a police officer. You might want to be a lawyer. You might become a star athlete. You have no idea at [under 16] where your life is going to go. You do not want it to be restricted. You do not want to not be able to do things because of something you did when you were 13. I think it is really, really important to always have lots and lots of options.

[11] You got yourself into some serious trouble [CA]. I hope you have learnt that a large part of that was because you had too much to drink. You got yourself into serious trouble and the last year and a bit you have worked really hard to get yourself out of trouble and in my view that is what you have done. You have got yourself out of trouble. You are so so fortunate that [VZ] is the man that he is and when I take all of that into account what I am going to do today is discharge you under s 282. That means you are discharged without conviction. You leave here with no conviction against your name. So when you make those teams or apply for those jobs or look to travel overseas and there is that bit somewhere that says, "List your criminal

convictions,” you can put a line through it and say, “I don’t have any.” All the best
[CA]. Go well. Go well.

J A McMeeken
Youth Court Judge