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**IN THE YOUTH COURT
AT INVERCARGILL**

**I TE KŌTI TAIOHI
KI WAIHŌPAI**

**CRI-2019-225-000019
[2019] NZYC 509**

**NEW ZEALAND POLICE
Prosecutor**

v

**[NN]
Young Person**

Hearing: 22 October 2019
Appearances: B Armishaw for the Prosecutor
F C D More for the Young Person
Judgment: 22 October 2019

NOTES OF JUDGE B A FARNAN ON SENTENCING

[1] [NN], you are before me today in the Youth Court for an early release hearing.

[2] On 30 August 2019 I sentenced you to three months' supervision with residence for a number of charges including assault with intent to injure, other assaults and driving offending. Today is the early release hearing so I consider the rest of your sentence.

[3] Your social worker, Ms Sloan, has filed a detailed and helpful report. She recommends that you be the subject of a supervision order for nine months with various conditions.

[4] While in residence, you have continued with your education and I have heard that you have obtained your forklift licence. That will certainly assist you going forward in terms of employment. I understand that owners of supermarkets, for example, actually have difficulty employing people that are suitably qualified in that field, so it may be that there are options of employment even here in Invercargill for that.

[5] As part of this hearing today I need to consider, [NN], whether you have absconded, committed further offences, and behaved satisfactorily with your obligations that were set out in your plan when I sentenced you to supervision with residence. If there have been any misbehaviours or non-compliance, then I need to consider whether they have been minor or more serious.

[6] You have not absconded, you have not reoffended, and that is certainly a 'positive' because that is what sent you back to residence in the first place. You have, as I have mentioned, continued with your education, learning not only just to be a forklift driver, but other skills as well. You have met your education goals and you were described in the second report that I have received from [the youth justice residence] as being respectful. You have complied with your obligations within your supervision with residence order, to what is referred to as a satisfactory standard.

[7] You have been admitted to secure while in residence. There were issues with another resident, although I accept what Mr More has told me that in respect of the

24 August incident, that was prior to my sentencing you to your current sentence. However, there was a further period in secure following an incident at the beginning of September. However, you had been calmed by staff and while you were in secure you completed some programmes including problem solving techniques, and 'when I feel angry' techniques. That will be helpful for your situation because you are quite often or have been in the past quick to be angry.

[8] While you have been in residence, [NN], you have mostly scored between levels 2 and 3 on the behaviour modification system, which shows that you can do well and you have the ability to maintain positive and pro-social behaviour. I accept that while you stand there before me today, you are extremely motivated and that you need to sustain that motivation. When given the right support and encouragement, you can work well and do well.

[9] Your proposed supervision plan will offer you good supports if you accept help and that is why I prefaced it with the word 'if' because in the past you have on occasions been resistant to accepting help. Ms Sloan is not there to criticise you, she is there in the first place to assist you, and it is only if you go off the rails or fail to follow her assistance that she might then have to take action that you probably would not be entirely happy with. But on the other hand if you had cooperated, then that would not be necessary.

[10] The conditions which are to be in place are there to help you, not to hinder you, and are there also to prevent further offending. You have issues with your cannabis use and you have heard Mr More mention that today. You have also had issues with domestic violence which you need to work on, otherwise, as you and I well know, you will be back before the Court.

[11] Your engagement with your social worker at [the youth justice residence] for alcohol and drug counselling and anger management unfortunately, in the report, tells me has been superficial. You need to take all of those matters more seriously, and take on board mechanisms and ideas about how you can stop those sorts of behaviours going forward.

[12] You say you are motivated because you want to work at the freezing works where you will be drug tested, and of course that is a positive thing for being at the freezing works, because without negative drug testing you will not be able to sustain any employment.

[13] You also want to spend time with your son and that is important. It is important not only for you, but primarily it is important for him because he is entitled to have a dad that cares for him, but he is also entitled to have a dad who is current and present and not in and out of institutions and particularly not in and out of adult prisons.

[14] You will need to engage more meaningfully with the supports available here in Invercargill if you want to lead what I refer to as a pro-social offence-free life, and that is what I gather you have told Mr More you want to do, especially as I am aware that you have a diagnosis of ADHD with what is referred to as conduct disorder. You are not without your challenges and I accept that. You also have drug dependency and have challenges with depression on occasions.

[15] The recommendation in the report from [the youth justice residence] is that you should be granted early release, and the report is reasonably positive about how you can manage going forward having satisfactorily completed all of your requirements. This is the report that I am holding up here, to show you that I have read the details of it and I have also read Ms Sloan's report that I have referred to.

[16] The recommendation going forward is for nine months' supervision, so it is slightly longer than the six-month period that could have been imposed upon you, but that is because the supervision residence period was for a lesser period.

[17] Taking all of those matters into account, [NN], I am going to grant you early release, but the buck stops with you now. When you leave that door there and go outside back into the community, it is not an invitation to find the nearest bong or bit of weed and start smoking cannabis, because if you do that you will be back here in five minutes flat.

[18] It also is not an opportunity for you to argue with your girlfriend or former girlfriend about any matter, including your son. If you want to have contact with your son, you need to talk to Mr More about how that can be managed properly, so that there is no confusion about the arrangements and no misunderstandings between the two of you which could lead to domestic violence. She has to be protected from you, and you both need to protect your son from that sort of aggravation.

[19] I am going to make supervision order for nine months in the terms and conditions as sought by your social worker.

- (a) You are not to associate with any person that you are notified by Ms Sloan that you cannot associate with.
- (b) You are to be under Child Adolescent and Family Services and follow any recommendations given, so if they require you to attend counselling you must.
- (c) You are to continue with your sessions with drug and alcohol counselling with Adventure Development and when you are there you are to participate in the sessions, so no artificiality, no just turning up and eating your lunch, you have got to participate.
- (d) You are to attend and participate in a Stopping Violence programme and that is to help you in your relationship with the mother of your child.
- (e) You are to be at home and the subject of a curfew between 10.00 pm and 7.00 am.
- (f) You are not to purchase, possess, or consume illegal drugs during the duration of the plan, and you will be the subject of monthly drug testing. Even if you do not get a job at the freezing works, Ms Sloan is going to arrange for you to be monthly drug tested, so that would be like as if

you are at a job and it would be good practice for when you do get that job.

- (g) You are to attend and engage in weekly supervision with your social worker, and actively engage and participate in appointments with youth services and providers who will provide you with assistance in finding employment, which I know is important to you.
- (h) You are to engage in and attend all arranged appointments with your transition coach at the Transition to Independence Service, which is I believe the service that Mr More was describing to me previously.

[20] I would talk to these people about using your forklift qualifications if you cannot go straight to the freezing works, if that is your dream job. It may be that there might be a supermarket or something in that nature where you could get some employment in the meantime.

[21] I am going to judicially monitor that sentence. I will get a report about you every couple of months. If I am not happy, I know that Ms Sloan will be wanting you to come back and see me. It may be that in fact in a couple of months, even if you are doing really well, I would quite like to see you, because I think it is useful if you come and talk to me when you are doing well. I would like to see you before Christmas 2019, so let's put that arrangement in place. Mr More can come with you and we can have a wee chat to see how things are going.

[22] I will see you back here on 6 December 2019 at 2.15 pm.

B A Farnan
Youth Court Judge