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**IN THE YOUTH COURT
AT MANUKAU**

**I TE KŌTI TAIOHI
KI MANUKAU**

**CRI-2019-219-000055
[2019] NZYC 527**

**CHIEF EXECUTIVE OF ORANGA TAMARIKI-
MINISTRY FOR CHILDREN**

Prosecutor

v

[MQ]

[CG]

[AO]

[BD]

[DT]

Young Persons

Hearing: 31 October 2019

Appearances: C Boon for the Chief Executive
M Winterstein for the Young Person [MQ]
H Cherrington on behalf of M McIvor for the Young Person [CG]
H Cherrington on behalf of M McIvor for the Young Person [AO]
H Cherrington on behalf of M McIvor for the Young Person [BD]
C Merrick for the Young Person [DT]

Judgment: 31 October 2019

MINUTE OF JUDGE A J FITZGERALD

[1] There was a riot at [youth justice residence deleted] on [date 1 deleted] October 2019 involving quite a number of young people who are detained there. As a result, some young people were placed in secure care afterwards. Today's hearing relates to five applications to authorise an extension of time in secure care for up to a further 14 days for the following five young people, [AO], [BD], [MQ], [CG] and [DT].

[2] Unfortunately, it has not been possible for me to go to the residence to hear the applications. I wanted to do so as long as adequate security could be provided, but I was told there could not be. The Act does require such hearings be held at the residence where practicable, but I was told that it was not practicable to do so here. Instead we have conducted the hearings with most of the young people joining by AVL from a room at [the youth justice residence] and everyone else concerned has been in the courtroom here with me at Manukau.

[3] Two of the young people consented to the application and asked to be excused from attending, and I granted that. They had spoken to their Youth Advocate beforehand and, in the circumstances, I was satisfied their attendance by AVL was not required. That was the situation for [AO] and [BD].

[4] Because there is a lot of common ground in relation to these applications I am recording my reasons for granting all of them now after the hearings have concluded, so as to cover the overall situation and then I will explain the circumstances regarding the other individual young people shortly. To start with I need to summarise the main events.

[5] Although there were some behavioural issues of concern raised about events on [date 2 deleted] October 2019, it is the events of the following day that are the primary concern. On [date 1 deleted] October 2019 some young people from the [unit A] assaulted a staff member and took some keys from him. They used those keys to

open a gate to get out of the unit and get into a van. Some, in fact, got on top of the van which was on a ring road inside the external walls of [the youth justice residence].

[6] Four of the five young people whose applications I have dealt with today were in [unit A], that is [BD], [MQ], [DT] and [AO]. [CG] was in [unit B].

[7] After trying unsuccessfully to jump from the van on to the roof of the [unit A] they drove along the ring road to [unit C]. There they tried to incite young people inside to deal to the staff. An unsuccessful attempt was made to open a locked gate at [unit C] before they then moved on to [unit B].

[8] There [BD] used a key to open the padlocked gate. Some young people from [unit B], including [CG], jumped into the van. [DT] is identified as the driver and the van moved on to [unit D]. I should just add at this time that all of the external exits were blocked and so the van was limited to moving on that internal ring road only.

[9] Once at [unit D] some objects collected there were used to break guttering. A camera was smashed and thrown at a window cracking it. A number of young people dug a hole in the roof exposing insulation. [DT], [BD], [CG] and [MQ] are all mentioned in that regard. [DT] called for a lighter and another young person took off his shirt which was used as a wick to light a fire on the roof of the unit. Fire Services were alerted.

[10] The young people involved were shouting verbal abuse and used the fence line to get into [unit C]. Those identified as abusing staff and throwing things included [DT] and [CG]. There were also threats being made. Those involved in breaking guttering at [unit C] included [BD] and [MQ].

[11] These events continued through the afternoon, and negotiations took place to persuade the young people to come down. The first to do so was [AO], and eventually by about 7.00 pm all of the young people had surrendered themselves too.

[12] The papers I have read go on to describe some other concerning events following what I have just summarised. That includes on [date 3 deleted] October

2019 [BD] smashing lights in his room and sliding broken glass to [MQ] and attempting to do so with others.

[13] In terms of the initial events that I referred to at the [unit A] the evidence identifies [DT] as being one of those primarily involved in assaulting the staff member and doing so violently. The assault was with a piece of timber and when the staff member was on the ground [DT] and another young person were involved in stomping on his head, kicking his body, and assaulting with the timber. At another point [DT] was identified as a ring leader and I have also mentioned he was referred to as being the driver of the van.

[14] So, these were very concerning events. Understandably the five young people, whose applications I have heard today, were placed in secure care. So too were some others. As it turns out all of the young people, other than [CG], have consented to the application today. [DT] had initially indicated that he wanted an opportunity to explain his behaviour, but he decided against that.

[15] The reasons for [CG] not consenting to the application are as follows. He had spent 17 days in secure care in the period up to [date 1 deleted] October 2019. That was in relation to earlier incidents of concern. He was on reintegration to [unit B] on the day of this incident. The staff had acknowledged that he had progressed well during that earlier period in secure, and that he seemed to have reintegrated well. As I explained to [CG] it concerns me that despite having been through that process and successfully returned to [unit B] that he made the choice to become involved in these events.

[16] Given the evidence provided I am satisfied that in his case, as with all the others, the extension of time in secure should be up to a further 14 days. One reason I am satisfied that is appropriate to do is because of the thought that staff have given to reintegrating [CG] and the others concerned as soon as it is appropriate to do that. The indication today for [CG] was that staff are keen to start on that reintegration process from tomorrow.

[17] The making of the orders sought is clearly necessary to prevent these young people from behaving in a manner likely to cause physical harm to others in particular.

[18] For those reasons all five applications have been granted. I am granting an approval authorising the continued detention of all five young people in secure care for a period of 14 days commencing today.

A J FitzGerald
Youth Court Judge