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**IN THE YOUTH COURT
AT NELSON**

**I TE KŌTI TAIOHI
KI WHAKATŪ**

**CRI-2019-242-000017
[2019] NZYC 340**

**NEW ZEALAND POLICE
Prosecutor**

v

**[GE]
Young Person**

Hearing: 25 July 2019

Appearances: Sergeant K Parfitt for the Prosecutor
J C S Sandston for the Young Person
A Couch and S Alder as Social Workers

Judgment: 25 July 2019

NOTES OF JUDGE R J RUSSELL ON SENTENCING

[1] [GE], you appear for sentence this afternoon on four serious charges. They are aggravated robbery and three charges of threatening to kill.

[2] The facts of the matter will be well-known to you. On [date of offending deleted] you entered [a dairy]. You were carrying an air pistol. You pointed the weapon at the owner of the dairy and his [under 14] year old daughter. You burst into the dairy. You kicked over a display rack and a bin and said that you had a gun and they were to get down. You have advanced on these two people and pointed this air pistol that you had directly at them while telling them to get on the ground. They feared for their safety and they did crouch down and you then went behind the shop counter to the cigarette cabinet and started filling your backpack with cigarettes. This took you about 35 seconds before you ran out of the dairy.

[3] I have in front of me two photographs showing where you were pointing this gun at these two people that were on the ground. They were absolutely terrified of you, as anybody would, having a gun pointed at them they feared for their life.

[4] After you ran out of the dairy you went past a woman on the street. She jumped out of the way and you threatened her life.

[5] You were seen going up [street deleted] and were followed by the owner of a neighbouring shop and when you realised you were being followed you turned around and pointed this air pistol at him and again threatened him.

[6] All of this happened on [the date of the offending] this year. The police found you and they arrested you and charged you with these serious charges. You have been to a family group conference. It was recommended that a report and plan be obtained from Oranga Tamariki. I have that report and plan in front of me and I have had a look at that. It sets out the circumstances of what you did on [the date of the

offending], which I have just talked about. It also gives me some background information about you and your whānau in terms of your upbringing with them. The report details your history with the Ministry, with Oranga Tamariki, and some of this I am aware because I have been a Youth Court Judge who has dealt with you. On an earlier occasion the report talks about your schooling, it talks about your health and your alcohol and drug issues.

[7] There is a segment in the report which talks about the effect of what you did on these victims, particularly the shop owner and his daughter. They have been significantly traumatised and by that I mean really, really badly affected by what you did. They thought they were going to be shot and killed. And as I have said, anybody in their position would think exactly the same thing. They are really fearful of working in the shop alone at night now and the daughter is too scared now to help out in the shop as she had been doing.

[8] Mr Sandston said that you are remorseful. Your father has made this point clear to me. You regret what you have done, but this really seems of little comfort to these two victims who did not want to go to the family group conference and they did not want to meet with you and I think anybody could understand that because they are so affected by what you have done.

[9] There is a section in the report that talks about you and how you felt. It says that you feel “pretty shit about it now”. So you should. It is said that you have regrets, which you have told the social worker about and your father has also confirmed this today.

[10] This decision you made to rob this dairy, according to you, is one of the worst decisions you have made in 2019. In fact, I would say it is one of the worse decisions you have made in your whole life.

[11] You have written an apology letter, I accept that, and that you are remorseful for what you did.

[12] The report talks about the response of your whānau to what has happened. They are here in force in the Youth Court this afternoon. It shows they care about you, they love you, they want what is best for you. The report says they were really shocked when they found out what you did, but they are standing by you as I would expect them to. I have met a number of them before and they just want you to get on with your life and to make a success of it. They will be there to support you once the sentence that I am going to impose is over.

[13] The causes of this offending are in the report which I have read. The police's view has been expressed today by Sergeant Parfitt. He is an experienced Youth Court prosecutor. He said that from the police's perspective this offending has come out of the blue in the sense that there were no concerns immediately preceding [the offending] and after [the offending] you have followed all the rules. You have not breached your bail. You have not got into any further trouble with the law and this has led the police to have the view that you should not be transferred to the District Court for sentence. This was one option which the police could have taken. I do not have to consider this today because everybody agrees that you should stay in the Youth Court. Mr Sandston is exactly right when he said if you were transferred to the District Court, you would have been looking at a three, possibly four year prison sentence for what you did. The fact that you are still in the Youth Court will save you from having to spend a long time in prison.

[14] The point needs to be made to you, [GE], that if you do this again you are writing your own ticket to a very long prison term. Your young age and any other factors will not save you from that. So I hope I have made this point clear.

[15] There is still time for you to complete the conditions of the sentence which will run for the next year or so, and for you to get on with your life. If you foul this up, then I have hopefully made the consequences for you pretty clear. If you do this again, you will be in the District Court. This is almost certain.

[16] The social worker, Mr Alder, has recommended that there be a supervision with residence sentence for six months. The police want the residence sentence imposed for that length of time. Being in a residence is not unknown to you so you know what

is ahead of you. I am not going to impose the full six months because I want you to come back to the Court on 13 November 2019 and, providing you have followed all of the rules at the residence and not got into any trouble there, you will be released on 13 November. So this will be a sentence of five months two weeks and one day and you need to serve two-thirds of that. The two-third period will be until 13 November. Have you followed me so far? [Yeah]

[17] At this hearing the Judge, who will be Judge Zohrab on that day, will set supervision conditions for you for the following six month period. These are the rules you have to live by when you are back with your whānau and family and back in the community.

[18] I echo what your father says, I hope you can find a job and find something useful to do with your day and not have the idle time that I think has probably been one of the factors that has led to this offending.

[19] So for all of these reasons, [GE], I am going to impose a supervision with residence sentence for a period of five months two weeks and one day. You will come back to this Court on 13 November at a time that the registrar will advise for those supervision conditions to be set.

[20] I approve the conditions of the plan for the time that you are in residence which are contained in four pages of Mr Alder's report. I am not going to read all of these out but they will be in the order which you will be able to read. This refers to the work that you need to do about education, anger management, alcohol and drug education, vocation training and work experience, a health assessment, there are some cultural and recreational activities and there are other various obligations that you have which are set out in the plan.

[21] So you follow this plan and you will be released on 13 November 2019. If you get into trouble in [the Youth Justice residence] that you are sent to and if you do not follow this plan then your stay there will be extended and you would be asked to do the full five months two weeks and one day sentence. So you get a third off your

sentence if you follow the plan. Your final release date is calculated as being 8 January 2020 if you do not comply with the terms of this sentence.

[22] So, [GE], this is the sentence. Five months, two weeks and one day supervision with residence under s 311. You will be remanded through to 13 November 2019 and I approve the s 335 plan for the time that you are in residence.

[23] The conditions of your supervision sentence will be set by Judge Zohrab on 13 November 2019 at 2.15 pm.

R J Russell
Youth Court Judge