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**IN THE YOUTH COURT  
AT CHRISTCHURCH**

**I TE KŌTI TAIOHI  
KI ŌTAUTAHI**

**CRI-2019-209-000189**

**[2020] NZYC 435**

**NEW ZEALAND POLICE**

Prosecutor

v

**[JE]**

Young Person

Hearing: 12 May 2020

Appearances: D Elsmore for the Prosecutor  
R Buddicorn for the Young Person

Judgment: 12 May 2020

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## MINUTE OF JUDGE J A MCMEEKEN

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- [1] I have [JE]'s file. [JE]'s attendance was excused today because today was for legal argument.
- [2] [JE] first appeared in Court on 30 September last year, facing a charge of aggravated burglary. There have been many delays in this matter, firstly, I think, in respect of disclosure, and then for legal reasons in respect of whether or not [JE] should remain in the Youth Court.
- [3] The background was that [JE] was jointly charged with a then 16 year old and a then 18 year old with aggravated burglary. That is a schedule 1A offence. [JE] did not deny the charge. The youth did not deny the charge and that matter is progressing through the Youth Court. The adult, as I understand it, is proceeding with a jury trial.
- [4] The issue is whether [JE] is transferred to the District Court or remains within the Youth Court. Section 275(2)(a) Oranga Tamariki Act 1989 provides the statutory framework, and there has been discussion and helpful submissions filed.
- [5] It is my view, having considered the relevant statutory provisions, that the intention of s 275 is that 17 year olds charged with a schedule 1A offence should not be dealt with in the Youth Court. It also seems likely that the statutory intention in respect of 17 year olds who commit schedule 1A offences alone should not be treated differently those who commit the same offences with a young person. It seems that the policy reason for retaining all of the defendants in the Youth Court if there was to be a trial there was to minimise

stress, time, and resources of complainants and witnesses, but in this case, there is no trial in the Youth Court.

[6] Ms Buddicorn has submitted that [JE] should remain in the Youth Court. Much of what Ms Buddicorn says is absolutely correct in terms of there being better sentencing options in the Youth Court, and for a young woman like [JE], who wishes to engage in restoration, the family group conference process would, in my view, be superior for both [JE] and her victim.

[7] However, that is not the criteria that the Court has to rely on. I am satisfied when I consider the law that [JE] should be transferred to the District Court. However, I think this is a case where it is appropriate that a Judge who is dual warranted, that is, has both a District Court Judge warrant – in other words, sentences in the criminal adult Court – and a Judge who has a Youth Court warrant should be involved in this matter. I will then retain it at this time.

[8] I formally transfer [JE] to the District Court. I adjourn this matter now to 25 June at 3.30 in the District Court, but in Courtroom 2. I make a referral for restorative justice. I ask that a copy of this minute go to the restorative justice convener. I think that given [JE]'s age, it is really important that the conference take into account her young age in deciding who should attend and how that restorative justice conference should be run.

[9] I confirm that [JE] had indicated a not denied earlier, and Ms Buddicorn, her counsel, has now confirmed a guilty plea may be entered.

[10] I also direct a Probation report be prepared for 25 June at 3.30.

J A McMeeken  
Youth Court Judge