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**IN THE YOUTH COURT  
AT WELLINGTON**

**I TE KŌTI TAIOHI  
KI TE WHANGANUI-A-TARA**

**CRI-2019-296-000102  
[2020] NZYC 560**

**THE QUEEN**

v

**[CM]  
Young Person**

Hearing: 3 November 2020

Appearances: R de Silva for the Crown  
K Bailey for the Young Person

Judgment: 3 November 2020

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**SENTENCING NOTES OF JUDGE I G MILL**

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[1] [CM], we are here today because of the charge that you admitted that you wounded the victim and when you did that, you intended to cause really serious harm to her. There is no doubt that was the case, you were intending to hurt her really badly.

[2] In her report, Ms Briggs has referred to a number of matters that I want to repeat. The first is that there are two possibilities put forward as sentences in this case. Now the first is called *an admonishment*, that would follow a six month period of a plan which is similar to what has been happening for the last number of months. So you would still be doing what you were doing before and at the end of that six months, you would be admonished. Now all that means is essentially that an order would be made by the court and you would have a record that you have admitted this charge.

[3] The second thing that could happen is a supervision order, that would last for six months and it would be a little like what has happened in the past except it would be an order which is on your record. There would be lots of conditions or rules around that and I will talk about those later if we get to that point where I make a supervision order.

[4] So the first thing I need to look at is what actually happened on that day, and this was 6 December last year, late in the morning. The victim had parked her car nearby to Central Park to walk her dog and she had walked into the park where she reached a track which is known as the *Brown Track*, which is one of the main tracks through the park. As she was going towards some stairs, she felt you grab her from behind and you attacked her using a kitchen knife which you had brought with you. You stabbed her in the right arm and the right side of her right shoulder blade, and you continued to stab her both in the chest and you struck her as you hit her around the head. That was an extremely serious assault on her and you were intending to cause very serious harm.

[5] Now she managed to turn around and fall to the ground and kick out at you and fortunately that caused you to run away. She had a stab wound in the centre of her chest, she had serious cuts to her left arm and her right arm. She had a stab wound in her torso which is the main part of her body, stab wounds to her shoulder blade area and a cut on the top of her head.

[6] Now as far as you are concerned, you are 17 years of age. You live in a family which has [several] other younger [siblings]. At the time that this happened, you were living with your mum. You were having regular contact with your dad, but you are now living with your dad and your step-mum [JS] and her [children].

[7] Prior to this, you had come to the notice of the police in some ways but not in a way which you came before the court, but Oranga Tamariki have no records of any harm being done in the house or any concerns really about your family in either your mother's home or your father's home. So it was a surprise that you were found to be guilty of this offence.

[8] It is fair to say that the household in which you presently live is a stable household and that your family, and that is your wider family but also your parents and your dad, for example, who has given up work to make sure that the plan has been implemented for your recovery. There are a lot of people that have been working with you and Ms Briggs has referred to who those people are in her report. Some of them are here today.

[9] As far as you are concerned, you were not a young person who was drinking alcohol or taking drugs. You had problems but they were not related to drugs or alcohol. Subsequently, what we found out afterwards, mainly through the reports that we have, is that you do have some mental health needs and fortunately those needs now have been addressed or identified and are being looked after. You also have had times when you have felt badly about yourself. You have thought of harming yourself.

[10] Your schooling or being at school has not always been happy for you and you have been bullied in the past, and you have found it hard to talk to young people your age and make friends on occasions. Since the offending, you have been involved in schooling and you have done very, very well, and I have a report to that effect. I think you are in a better place than you were when you were at a college when you were struggling.

[11] You had come to the notice of the police in November 2018 which worries me somewhat, when you were found in Central Park with a pole and you were yelling out

threats. You did have online material that you were posting which came to the notice of the authorities and it is fair to say that at the time of you assaulting the victim, you were in a very bad place and you seemed to be obsessed with killing and people who have killed other people. What I saw during the course of this case about what was in your diary was worrying. It worried me a lot and it worried other judges.

[12] What has been said by your lawyer is that you are a different young man than you were then and I have to agree because that is what I see also. I have been assisted or helped a lot with the reports I have received from Dr Delmage and the other doctors and other professionals who have seen you. Ms Briggs has done a very good job of coordinating the help for you, making sure that she is available to you and helping you through what has been a very difficult year.

[13] No one can explain why you did this. You cannot explain it yourself apart from what you have said in your letter, that you were in a very bad place at the time and that you became obsessed with what you were seeing on the Internet, obsessed with your own thoughts about that and not seeking help or talking to people about how you were feeling. You have shown that you are really able to seek help now and what has impressed me so much in this case is the help that you are getting from everyone, and I think that that will continue.

[14] So it seems that why you did this is something to do with what is called autism which is something that you suffer from and that is a mental health condition. You were very isolated from other people, you tended to keep to yourself and think too much about what was happening to you and others. You were being bullied and at the time, you did not have a lot of support. Although it was available, you did not seek it and it seems that this led to you deciding to go out and try and kill someone.

[15] Ms Briggs suggests a supervision order or an informal plan as we have had in the last few months is the way that I should approach the case. I agree that there are two things I could do and I will come back to that shortly.

[16] Now Ms Bailey has been your lawyer and she has done a very good job on your behalf, telling me what you think and what should happen. She says that you

would rather that I put you on a plan for six months and then at the end of that, there is simply a record that you have been guilty of this offence, and that would be your record. She says that the advantage of that is that a judge would continue to be involved in reviewing the case as judges have all this year and really it is a bit like you being on what is called *a supervision order*, and so a supervision order is not necessary. The alternative to that, as I said, is that you get on a six month order which is a supervision order, and I will come back again to that shortly.

[17] Ms Bailey has said to me that the first of those options is what I should do and she has referred me to a lot of legal material which I will not repeat, to say that, that is what should happen to people in your position in the Youth Court. She says the public are protected because of the huge amount of work that has been done by you and the others and the support that you have from the professional people. She also points out that you spent nearly four months in residence before you were granted bail and I agree that that really is part of the penalty in this case, that you have been in residence for four months.

[18] You have been on very strict electronic bail conditions for a long time. What is really important here is that you have not broken the rules. Your bail rules have been strict and you have not broken them. You have also regularly appeared in court so that the judge has been told what you have been doing and you have done very well.

[19] Ms Bailey has also said that the interests of the victim in this case are important but that in spite of her awful experience she had, that if you were put on a plan for six months then her interests are also looked after because we know then whether you are able to go into the rest of your life and be a good citizen, and that it is unlikely that you would ever do anything like this again. Also Dr Delmage will continue to be in touch with you until you turn 18, and that is quite an important thing because it does not matter what I do, he will continue to be in touch with you.

[20] Well I have thought about this and I started thinking about it some time ago because I knew I would be involved in sentencing you. I agree that there are two things I can do and what I am going to do is I am going to sentence you to supervision. Now the reasons I do that are that, first of all, this is very serious thing

that you have done and I think there needs to be a sentence that shows that it was serious. But also, I think that you now need to be on that sentence to finally prove that what has happened in the past is not just something that you have done just to get through what is happening to you by coming to court. I want this sentence to show that you are capable of moving on and doing what is necessary and being supported for a period of six months, and then the sentence ends.

[21] Now Ms Briggs was concerned, and I think Ms Bailey was concerned, that a judge would not be involved in seeing you during those six months, but if you did not comply with the rules of the sentence, you will come to court and another sentence can be imposed on you. So if you do not do what is expected of you during those six months, you can come back and we start again and a new sentence, another sentence can be imposed. I see that as a better way than just continuing what we have been doing over the last 10 months.

[22] So that is what I am going to do, and I now have to do the formal part where I set out in legal terms what the sentence is. You will get a copy of this and you will need to discuss that with Ms Bailey and Ms King if you do not understand parts of it. So I will go through it. If you need to stop as we go that is fine, but I now have to make a legal decision.

[23] So I now sentence you to a supervision order for a period of six months, that is in accordance with s 283(k) of the Act. There are a number of conditions and I think actually what I will do, if counsel agree, is just refer to the parts of Ms Briggs' report rather than read them through. Those are the special conditions that are on page 1 of the report and also the additional conditions on page 2.

[24] Now [CM], perhaps I should tell you what some of the rules are:

- (a) You will still be on a curfew, that is you need to be home from 7.00 pm to 7.00 am unless you are in the company of someone from Oranga Tamariki or your mentor, or Jack of Youth Support Services, your dad or [JS] or any other person approved by Oranga Tamariki.

- (b) You are not to use the Internet unless you are under the supervision of an adult, but that condition is going to be reviewed as time goes on.
- (c) You are not to it says, “associate with”, that means be with or see people that the social worker says you must not be with. Now I do not know who those people would be because we have not got anyone at the moment. So if the social worker is worried about who you are seeing, then the social worker can say you must not see them.
- (d) Of course, you will have to continue living where you are and if you live anywhere else then Ms Briggs has to agree to that.

[25] So those are the important rules, but you will get a document with those rules on it and you should talk to Ms Bailey and Ms King about those.

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I G Mill  
Youth Court Judge

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