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**IN THE YOUTH COURT
AT CHRISTCHURCH**

**I TE KŌTI TAIOHI
KI ŌTAUTAHI**

**CRI-2019-209-000112
[2020] NZYC 414**

**NEW ZEALAND POLICE
Prosecutor**

v

**[TD]
Young Person**

Hearing: 11 August 2020
Appearances: Sergeant G Nilsson for the Prosecutor
K H Cook for the Young Person
Judgment: 11 August 2020

NOTES OF JUDGE J A MCMEEKEN ON SENTENCE

[1] [TD] you appear for the final time in the Youth Court. You first appeared in Court over a year ago on 9 July. I met you then with your mum and your dad. They are both here with you again today. You were facing a charge of sexual violation, the maximum penalty of which is 20 years' imprisonment. It is one of the most serious charges that this Court deals with. You were just 16 when this offending occurred. You did not deny the charge.

[2] There was a Family Group Conference in September of last year that was well attended including by your victim's father and the Dean of your High School. A plan came out of that conference which involved you attending the STOP programme. You were already half way through an assessment for that STOP programme. The plan also was that you continue at school and that you do community work. The conference noted you had wanted to write an apology letter and it was agreed that with STOP you would be able to do that. The Family Group Conference recorded that the conference recommended a s 282 discharge if everything was completed; however, when the matter came before His Honour Judge Callaghan on 10 September he has recorded that the disposition sentence was to be removed from the conference record because it seems that that may have been incorrect and that the police did not agree with that.

[3] You have been regularly seen in the Youth Court since then. I saw you in October and December last year and March of this year. I would have seen you more often but for COVID. I have read the assessment report from STOP and I have read all of the progress reports. The reports have all been good. I say that knowing that it is not easy to engage on the STOP programme. You cannot go there and not be actively involved. It is also not easy for your parents. Much is required of them. The STOP reports have all been favourable. You were described in one report as being "effortful" in your approach. The reports say you have met their expectations. The report now is that you have completed your intervention with STOP and you have completed all of the tasks which have included one-on-one work, group work and presenting your progress to your parents. There has also been an apology letter written. You have done all of your community work. I have also received regular reports from your High School. They tell me that you have an attendance rate of 95 percent, that you are participating well in classroom activities. The comment on their most recent education report is that you continue to have a good attitude at school and you have no

behavioural issues. I note that, apart from this offending, you have never been involved in the Youth Justice system.

[4] Your mother is from [overseas]. She attends Court with an interpreter. There have been discussions today about what the outcome should be. It is clear now that you should be discharged from Youth Court. You have been here for over a year and you have totally completed your plan. I confirm you have done the community work that was referred to.

[5] The police submit that this is really serious offending and that a s 283(a) discharge should be considered. That means that you would have a record of this offending. Your lawyer and your social worker submit that you should be discharged under s 282 Oranga Tamariki 1989. That is like a discharge without conviction and it means you will not have a criminal record. I have to decide what to do. I note that I have spoken with both your mother and your father. Your father is pleased with your progress. In his view you are very contrite and that there have been some positive outcomes as a result of this whole process. Your mum is also proud of you. In her view you are growing in maturity. She thinks also that there have been improvements and that you are maturing.

[6] Everything that has been said of you, [TD], has been positive. No-one can turn back the clock and undo the harm that you caused by your actions but since then, and particularly since coming into Court, it seems to me that you have not put a foot wrong. I accept that you have shown remorse, that you are contrite. You have certainly put in a huge effort with STOP and you are continuing to progress well at school.

[7] Your lawyer has spoken to me about the rehabilitation that you have undergone. Your lawyer has also spoken about the consequences if a 282 discharge is not given to you. Mr Cook referred to what could be a domino effect because of the seriousness of this matter. Mr Cook also has referred me to the circumstances of your offending. I take into account as well that you were just 16 years of age. I have to take into account several matters that the law tells me are relevant. You are a young man who, when just 16, made some really concerning decisions. As a result of those decisions you have been before the Court now for over a year. You have had regular

reviews. You and your parents have come to Court regularly. Most importantly, you have undergone some extensive rehabilitation on the STOP programme and you have done all that they have required of you. Both of your parents have seen changes in you. You have continued at school. You are a young man with a future. That future will almost certainly involve travel [overseas] because that is where your mother is from. The Court must take into account the importance of you being able to fully rehabilitate and participate in our community in a meaningful way.

[8] When I weigh up all of the matters that I am required to, I consider that in these circumstances you can be discharged under s 282. I take into account the rehabilitation programme that you have completed. I take into account your parents' views. I take into account your age at the time of the offending and the circumstances.

[9] In respect of this matter you are discharged under s 282. That means you have no criminal record in respect of this matter. Good luck [TD]. I hope you continue to do well and you continue to apply the lessons that you have learnt.

J A McMeeken
Youth Court Judge