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**IN THE YOUTH COURT
AT INVERCARGILL**

**I TE KŌTI TAIOHI
KI WAIHŌPAI**

**CRI-2019-225-0000071
[2020] NZYC 152**

**NEW ZEALAND POLICE
Prosecutor**

v

**[LU]
Young Person**

Hearing: 20 March 2020
Appearances: Constable M Lee for the Prosecutor
W N Dawkins for the Young Person
Judgment: 20 March 2020

ORAL JUDGMENT OF JUDGE B A FARNAN

[1] [LU], you are aged 16 and you are for sentence today in respect of charges of assault with intent to injure and threatening to kill.

[2] Present at Court today is your mother. I am grateful for her continued attendance, as is your care and protection social worker who I thank for attending. You are represented by Mr Dawkins.

[3] This offending was in respect of a female friend of yours and occurred on 6 September 2019. You admitted the offending on 14 February 2020 and the subsequent family group conference recommended that you be the subject of orders.

[4] I have before me a report and plan which recommends that you be the subject of a supervision with activities order for a period of four months. That plan does not recommend that the order be followed by a supervision order, as is normally the case. That is largely due, I understand, to matters that were agreed to and discussed at the family group conference.

[5] However, today I have made it clear to all present for this hearing that it is my clear view that [LU] will need to be supported beyond the expiry of his supervision with activities order, and for that reason I will be requiring [LU] to appear back before me on 10 July 2020, to consider whether or not there needs to be a supervision order to follow the supervision with activities order.

[6] It is proposed that [LU] will live at a specialist placement in [location deleted]. There is a proposal that he move from that placement at some stage into the care of his father. I note that that is an interesting proposal, as until recently [LU]'s father has disengaged from his family after he moved to a [job] in [the North Island] some time ago.

[7] This would be subject, in any event, to [LU]'s father completing a parenting assessment, otherwise [LU] will subsequently have to be transitioned to another Oranga Tamariki care placement.

[8] I understand, [LU], that the issue of your father's re-engagement with your family will be part of the discussion when the care and protection proceedings are before the Court next week.

[9] [LU], you say that the offending occurred when a disagreement had occurred between you and the victim over loaned property and that this argument escalated. You had written to your victim apologising to her and confirming that the offending should not have happened. You are correct in that regard.

[10] This is unfortunately yet another example [LU] of you losing control when you are upset by another person's behaviour towards you.

[11] Your parents separated in 2018. Their separation was extremely acrimonious. You accept that you have experimented in the past with drugs and alcohol.

[12] [LU], I have noted that you can be an enigma. You are polite and respectful, but you also can be controlling and violent.

[13] Your current victim has clearly been impacted by your offending. I am told that she attended the family group conference, and Mr Dawkins commented that he was impressed by her. I hope that the apology that you have written and which you and I have discussed already this morning is genuine, otherwise there will be or could be issues for you going forward in curbing your behaviour. Your victim supports you getting help in the future.

[14] I acknowledge, [LU], that you have already spent a significant period in recent times at [a Youth Justice residence]. You have behaved well, but your lack of empathy and apparent remorse, despite your apology, is seen as a matter of concern by some of the professionals who have been interacting with you.

[15] It is hoped that this is now a change in your attitude going forward. You are accepting of the proposed order. Your mother is supportive of you as always, and in an ideal world I know that she would like to have you living with her. She knows, however, that that is not a realistic prospect at this time.

[16] You had been estranged from your father for some time, but from the information before me it would appear that your father has recently resumed communication with both you and Oranga Tamariki.

[17] There is still a concern that your father has an authoritarian and inflexible parenting style which would not create a conducive environment for you to live in to address your offending. Mr Dawkins has confirmed his views in that regard, particularly in his capacity as your counsel and lawyer for child in the Family Court.

[18] Your paternal aunt is also supportive of you. Her comments have been noted in the report before me, and she has previously in the past attended family group conferences for you.

[19] [LU], you have many challenges moving forward. You have been the subject already of three psychological and psychiatric reports. There has been reference to you showing narcissistic traits, although I accept that there has been no formal diagnosis and it would be unfortunate to give you that diagnosis or labelling at the present time.

[20] However, it is clear that there is serious concern about your violent behaviour and the risks that they may reappear in the future. You have been exposed to conflict, I accept, when you have been growing up, but as I have noted you can be charming and intelligent.

[21] The social work report therefore recommends various interventions for you. In particular, they include focussing on anger management, in that when you become angry it is acknowledged that you have an increased potential to hurt others and that you need to learn how to control those feelings. The intervention will also help you to find healthier ways of relating to people, with a particular focus on improving your relationship with young women. Again, that is particularly important if you are to have functional relationships with women as you mature.

[22] You will also be given the opportunity to develop pro-social activities and there is information to suggest that your future career choices will be looked at. There will

also be a development of a reward system so that you are positively reinforced rather than facing punishments all the time, which is a factor that you may feel is your current circumstance.

[23] It is acknowledged in the report that any intervention will likely need a plan which will allow you to have a strong sense of what is in it for you. You also need to be taught empathy and that could be difficult, as the professionals dealing with you are aware that you have a strong drive to succeed in terms of power and control. That is a concern at the present time and you will need assistance in that regard.

[24] The report before me also notes that there is no specific programme available in New Zealand which provides intensive psychotherapy for young people with your particular characteristics, and that the proposed programme has been modified in consultation with some other professionals.

[25] You need a placement, as is clear to me, [LU], to improve your interpersonal skills, which is why the supervision with activity residents programme is recommended, and I acknowledge that you need assistance in both areas of care and protection and youth justice.

[26] The [specialist male youth] programme is considered appropriate for your needs, and to deal with your social and psychological needs in particular. I understand that the police support what is promoted as they feel that you need to be reined in, in terms of your violent tendencies.

[27] The proposed order supports the family group conference's proposed interventions and supports the rationale for the proposed order. However, I have noted my concern about what I would see as the need for follow-up in terms of a supervision order.

[28] All of this, hopefully [LU], will deal with the nature and magnitude of your offending to date. Yours is clearly not a straightforward case and you need specialist intervention, as is proposed. The order, as your social worker says [LU], is the only

viable option to address your complex needs, as well as taking into account the youth justice principles under the Oranga Tamariki Act 1989.

[29] I agree with those comments in the report before me. I am grateful for the detailed and thoughtful report presented on your behalf by Mr Mogensen who is in Court today. [LU], you are most fortunate that you have had him assisting you to date.

[30] Therefore, I conclude that a supervision with activity order is the only viable sentencing option for this Court for you, [LU], and I sentence you to a four month order accordingly.

[31] That will be followed by a further Court date, on 10 July 2020 at 10.00 am, to consider whether or not there needs to be a supervision order to follow the expiry of your supervision with activity order.

[32] Therefore, I make the order as I have indicated [LU], for a period of four months. You will be the subject of standard conditions. You will also be the subject of additional conditions which include:

- (a) You will not associate with your victim.
- (b) You will not associate with any other person with whom you are informed by your social worker in writing you may not associate with.
- (c) You are to reside at the [specialist residence]. If your father meets the criteria set out in a parenting assessment, it is planned that you can transition to his address once the order is complete. If, however, he is unable to satisfactorily complete the parenting assessment, then you will transition to another Oranga Tamariki care placement. Any other address needs to be approved by the social worker before occurring.
- (d) Further, [LU], you will abide by any house rules set down by the [specialist residence] for the duration of the order.

- (e) You are not to purchase, carry, or consume any alcohol or illicit drugs during the duration of your supervision with activity order. You must submit to a drug test if directed by [the specialist residence] staff and/or your social worker.
- (f) You are to adhere to a 24 hour, seven day a week curfew at [the specialist residence], unless in the direct company of an Oranga Tamariki employee, someone approved by Oranga Tamariki staff, including your father if he is approved, or your mother. The curfew can be reviewed, and continued compliance of the curfew may result in the hours of curfew being reduced. You will be notified of any change in writing by your social worker.
- (g) You are to actively attend and engage in the [specialist residence] supervision with activities programme, including any mentoring and activities as stipulated by the [specialist residence] staff without any unexplained absences.
- (h) You are to regularly attend any education programme offered Monday through to Friday, with no unexplained absences.
- (i) You are to actively engage and participate in any psychological counselling for the length of the supervision with activity order, with no unexplained absences.
- (j) You are to have weekly contact with the social worker without any unexplained absences.

[33] I have taken the time and care to go through all of that because you did not have the discussion that you should have had with Mr Dawkins yesterday. That is certainly no criticism of Mr Dawkins, but is likely a criticism of you. The objectives under the plan are for you to deal with anger management, social skills, life skills, communication skills, respect for others, and problem solving.

[34] Therefore, [LU], I look forward to seeing you again on 10 July 2020, and receiving a report that you are doing well and that there have been appropriate plans for your transition.

[35] At this stage all I can say about a future supervision order is that you can expect that one will be made, and that it will be for other professionals to persuade me otherwise.

B A Farnan
Youth Court Judge