

**IN THE DISTRICT COURT  
AT AUCKLAND**

**I TE KŌTI-Ā-ROHE  
KI TĀMAKI MAKĀURAU**

**CRI-2020-004-008976  
[2022] NZDC 13106**

**THE QUEEN**

v

**ANDREA NICOLE PAUL  
(AKA) ANDREA NICOLE EDWARDS**

Hearing: 8 June 2022

Appearances: V Squires for the Crown  
J Haynes on behalf of A Cresswell for the Defendant

Judgment: 8 June 2022

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**NOTES OF JUDGE K MAXWELL ON SENTENCING**

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[1] Ms Edwards, this morning you appear for sentencing on one charge of receiving. The maximum penalty is seven years' imprisonment. The facts of this particular case are well known. I canvassed them in the context of an application by you for a discharge without conviction. However, I also have to briefly touch on those facts again this morning.

[2] On 17 October 2020, the Trelise Cooper head office was left locked and secured by staff. Between 6 pm that day and 8.30 am on Monday 19 October, Nicholas Bush was an associate of yours, broke into the premises. He took approximately 2,000 items of clothing. The value of which is \$750,000. Only a portion of the stolen clothing has been recovered by the police.

[3] Turning to your particular involvement. On 2 November 2020, a storage unit was booked in your name. That was located in Cook Street in Auckland. On 6 November you called a taxi to collect you and Mr Bush. You and Mr Bush loaded a large number of suitcases into the boot of a taxi and asked the driver to turn off the meter, that he would be paid in cash to take you to that storage unit. After all of the suitcases were unloaded, you asked the taxi driver to return you to a hotel.

[4] On 12 November 2020 police executed a search warrant on your room at a different hotel. You and Mr Bush were located and arrested. During a search of the room, police located 16 of the stolen Trelise Cooper branded clothing items.

[5] The value of the stolen items found in your room and in a storage unit was valued at \$136,780.00

[6] Sentencing in your case, Ms Edwards, involves a two-step process. I shall first determine a starting point having regard to the seriousness of your offending by reference to comparable cases and to the aggravating and mitigating features. I am required to have regard to the purposes and principles of sentencing.

[7] Both the Crown and your lawyer are agreed that there is no guideline judgment for sentencing in this area. The reason being, of course, that the circumstances vary widely and so, generally speaking, comparing the facts and the gravity of your offending to other cases can be of limited assistance.

[8] A number of cases were previously canvassed in the context of your application for a discharge without conviction. The Crown submits that a starting point of two years eight months' imprisonment may be justified. In updated submissions filed by your counsel Ms Cresswell, she submits that a starting point of two years' imprisonment maybe justified.

[9] When one looks at the aggravating factors in your case, they are obvious. They include the value of the goods, which was significant. Further, the existence, in my view, of a commercial element, and a closeness in the relationship between Mr Bush and yourself.

[10] I hope that you have had an opportunity to read the victim impact statement. It is carefully written. In that, Dame Trelise Cooper goes into some detail as to the effect that this offending has had on, not only herself, but her business and her staff. She refers to the personal effect on her and what she refers to as the “massive reputational damage” that is ongoing today. She refers to many false allegations being made at the time. She refers to the time when it occurred which of course coincided with the first year of COVID-19. As you will well know Ms Edwards, the COVID-19 pandemic affected a number of businesses. Dame Trelise Cooper refers in some detail to the financial effect on her business, the details of which I do not propose to go into at this stage. She refers to not only the damage to the property and her business but also the invasion of a workspace and how her staff were made to feel unsafe in their work environment. If you have not read that victim impact statement carefully Ms Edwards, I suggest you do so.

[11] Returning to your offending. In some ways, I guess, the extremely fast work by the police in this particular case has possibly worked to your advantage, because a search warrant was issued and executed and therefore it became unclear as to what was intended with those items which were stored there.

[12] In my view, having regard to all of the circumstances of this case, a starting point of two years’ imprisonment may be justified.

[13] I now turn to the mitigating factors relevant to you. I only need to refer to mitigating factors Ms Edwards, because there is nothing about you or your background which aggravates this particular offending.

[14] The first mitigating factor is the discount for your guilty plea. The Crown has submitted that a discount in the order of 15 per cent maybe justified. I understand that the plea came shortly before the trial was due to commence. Ms Cresswell previously pointed out that there were negotiations which resulted in a slight amendment to the summary of facts.

[15] The reason that the Court gives credit for a guilty plea Ms Edwards, is to facilitate the operation of the criminal justice system. It serves as a valuable social

utility saving witnesses such as Dame Trelise Cooper from having to participate in a trial. However, in your case in my view, the guilty plea was relatively late and in circumstances where the prosecution case appears to have been strong. In my view, however, a discount of 15 per cent may be justified.

[16] I now turn to your previous good character. I understand that you are 46 years of age and you have no criminal history. A sentencing court is required to take into account evidence of an offender's previous good character to the extent that it is applicable in the particular case. There are two features which underpin this point. Firstly, recognising that a fall from grace, which has been spectacular in your case Ms Edwards, is punishment in itself and, secondly, recognising the greater potential for rehabilitation and that comes through in the pre-sentence report. You are someone who is considered at low risk of re-offending. In my view, a discount in the order of 15 per cent is available for previous good character.

[17] I do not propose to go into your personal circumstances in any detail at this point because I am going to address them shortly. But in my view your personal circumstances are quite unique, and I am going to allow a further 10 per cent having regard to those. Again, I will expand on those shortly.

[18] In the submissions filed in your behalf, Ms Cresswell refers to the relationship that you had with Mr Bush. She refers to it being a toxic relationship. This issue was canvassed at the time of your application for a discharge without conviction. I do not accept for the purposes of sentencing, that your relationship with Mr Bush diminishes your culpability in this case. It does not make you less responsible for what occurred. The Crown accepts that there was violence which followed the offending, but again this was after the offending. The psychological report which you filed for the purposes of that application for a discharge without conviction said as much. Any attempt in my view to try and shift responsibility onto Mr Bush for what you did is without foundation.

[19] Your involvement in this offending, from my perspective, Ms Edwards, simply reflected what I see as your chaotic lifestyle at that particular time. The business that

you offended against is the victim, not you. Receivers provide a market for burglars. It is that simple.

[20] Having regard to the factors I have identified, that would reduce the sentence to something in the order of 14 months' imprisonment. This is what the Court calls, "a short term of imprisonment." Your sentence is therefore within the range where a non-custodial or a less restrictive community-based sentence maybe imposed.

[21] I turn briefly to s 16 of the Sentencing Act 2002, and what that says is this, Ms Edwards:

### **16 Sentence of imprisonment**

- (1) When considering the imposition of a sentence of imprisonment for any particular offence, the court must have regard to the desirability of keeping offenders in the community as far as that is practicable and consonant with the safety of the community.

...

[22] In your case Ms Edwards, a sentence is being imposed for a number of reasons. It is being imposed to hold you accountable, it is being imposed to promote in you a sense of responsibility and to provide for the interests of the victim of your offending. It is being imposed to denounce your conduct and deter you and others from committing similar offences, but it is not being imposed to protect the community from you.

[23] Having regard to s 16 of the Sentencing Act, in my view a sentence other than imprisonment is available to meet not only the purposes of sentencing but the principles of sentencing. Ordinarily, after imprisonment a sentence of home detention would fall for consideration. The difficulty we have in your case, Ms Edwards, is that there is no suitable address available for home detention.

[24] I need to give that some context. For some time, I understand you have had difficulty securing a home. You have been in and out of, I believe, emergency accommodation or temporary accommodation and, finally, you have secured an address through WINZ. However, the nature of the accommodation is such that electronic monitoring is not available. I understand that you have no other options

available. So, from the Court's perspective there are really only two options available. The first is that I sentence to imprisonment and grant you leave to apply for home detention if, by some chance, a suitable address becomes available. The second option is to adopt a sentence which is less than imprisonment and also less than home detention or community detention.

[25] I am going to refer very briefly to a Court of Appeal judgment which provides me with some assistance. That is a case called *R v Rawiri*.<sup>1</sup> In that case, a District Court Judge imposed a sentence of community work and intensive supervision in relation to drug-related offending. The Solicitor-General appealed, Ms Edwards. In essence, they said that the sentence was inadequate. In the circumstances of that case, home detention was not an option because the respondents were living in a place where there was no electronic monitoring available.

[26] What the Court did was this. They referred to what we call, *The hierarchy of sentences and orders under the Sentencing Act 2002*. The most restrictive being imprisonment, the least restrictive being a discharge or an order to come up for sentence if called upon. What the Court of Appeal said was that the changes to the Sentencing Act were consistent with the discernable legislative policy of keeping offenders within the community whenever appropriate. They observed that the legislature placed community-based sentences well up the hierarchy, immediately below home detention.

[27] The Court went on to say this, Ms Edwards:

This Court has recognised that a sentence of community service has a punitive aspect. It is intended by Parliament to be, and is, a very real and effective alternative to imprisonment which should not be regarded by the public as a minor or insignificant reaction. A sentence of community work is designed to achieve the principles of accountability, deterrence and denunciation.

[28] The Court also referred to promoting a sense of community participation and awareness. The Court said this:

The statutory hierarchy of sentencing options is a blunt affirmation that prison is a measure of last resort.

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<sup>1</sup> *R v Rawiri* [2011] NZCA 244.

[29] In my view, the purposes of sentencing in your case, including deterrence and denunciation, can be adequately served by imposing something less than home detention, this being the least restrictive sentence available in the circumstances.

[30] I have reached this view having regard to what the Court of Appeal says about those types of sentences but also, as I have mentioned, having regard to your unique circumstances. You have no criminal history, you have prospects of rehabilitation, you have challenging personal circumstances. As to those, the Crown accepts that you were a victim of serious domestic violence. It is apparent that you have spent time in hospital for a spinal cord injury and you have also spent time in a women's refuge. You have struggled to secure accommodation and, again, it seems to me having regard to the pre-sentence report, that this is the first time, in a long time, that you are actually settled.

[31] I also take into account, Ms Edwards, the fact that you have had a very public downfall. In my view that is a very real punishment. What is unfortunate, is that your children have been caught up in the public vilification of you and I suspect that watching them suffer for what you did, is also another very real punishment. You may also find, Ms Edwards, that the sentence I impose is in fact more onerous, in some respects, than being made to stay at home.

[32] The sentence I am going to impose is as follows: On the charge of receiving, 300 hours of community work. I also make an order for the payment of \$2,500 in emotional harm. That is to be paid at \$20 a week, commencing 23 June 2022. I also impose a sentence of 12 months' supervision. That part of the sentence, Ms Edwards, is designed to assist you.

[33] In my view, having regard to s 20 of the Sentencing Act, a sentence of supervision is required to address what I see as the causes of your offending. The conditions of that sentence will be as follows:

- (a) You are not to associate with or contact Mr Bush or Ms Stephens without the prior written approval of your probation officer.

- (b) You are not to possess, consume or use any drugs not prescribed to you.
- (c) You are to attend and complete an appropriate drug programme, counselling or treatment to the satisfaction of a probation officer. The specific details of the appropriate programme shall be determined by a probation officer.
- (d) You are to attend an assessment for Emerge mental health, as directed by a probation officer.
- (e) To attend and complete any counselling, treatment or programme as recommended by the assessment as directed by and to the satisfaction of a probation officer; and
- (f) Finally, you are to attend and complete any programmes, counselling or treatments as directed by a probation officer.

[34] I should also mention Ms Edwards, that in relation to that sentence of community work, that can be converted to basic training and life skills, as appropriate.

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Judge KH Maxwell  
District Court Judge | Kaiwhakawā o te Kōti ā-Rohe  
Date of authentication | Rā motuhēhēnga: 19/07/2022