

THE QUEEN

v

JUSTIN CHRISTOPHER INNES

Coram: Thomas J
Blanchard J
Tipping J

Judgment: 27 August 1998
(ex parte)

JUDGMENT OF THE COURT DELIVERED BY TIPPING J

The appellant, along with three others, was convicted of aggravated burglary in the District Court at Invercargill.

The facts can be stated briefly. On 3 August 1997, the appellant drove his co-offenders to the victim's home. They were armed with iron bars. The co-offenders entered the victim's home and attacked the occupants. Although the appellant did not enter the house, he participated in criminal damage near the house and knew full well what the others were going to do.

All of the offenders, with the exception of the appellant, pleaded guilty to the charge of aggravated burglary.

The appellant was sentenced to 3 years imprisonment for his role in the events. He has appealed to this Court against that sentence.

The appellant applied for legal aid to conduct his appeal. That application was declined. As a result, the appeal has been determined on the basis of written submissions filed by the appellant.

The appellant submits that the sentence imposed was manifestly excessive on the ground that his involvement in the incident was minimal. As such he submits that he should receive a lesser sentence than his three co-offenders, who received sentences of between 2½-3 years imprisonment.

We are satisfied that the sentence was appropriate. The appellant did not actually go into the house, but he was otherwise substantially implicated. To the extent that it might be thought that his sentence should be less than that of the others because of his staying outside, it should be noted that he pleaded not guilty and was convicted after trial, whereas all the others, with a greater or lesser degree of promptness, each pleaded guilty. Thus this man's arguably lesser involvement is matched by the fact that he could not claim any credit for pleas of guilty as the others could.

Accordingly, the appeal is dismissed.

A handwritten signature in black ink, appearing to be 'A. J. [unclear]', written in a cursive style.