

NZLR

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IN THE HIGH COURT OF NEW ZEALAND  
DUNEDIN REGISTRY

No. M.105/84

1259

BETWEEN TREVOR ALAN KEEN  
Appellant

A N D POLICE  
Respondent

Hearing: 20 September 1984

Counsel: S. Rogers for Appellant  
W.J. Wright for Respondent

Judgment: 20 September 1984

ORAL JUDGMENT OF HOLLAND, J.

The appellant appeared in the District Court pleading guilty to one charge of receiving stolen property. The stolen property, however, was considerable being of a total value of \$4,240. He was sentenced to nine months' imprisonment. He appeals against that sentence.

His counsel advances three grounds in respect of the appeal. First is that the two burglars who actually stole the property received much lighter sentences - one received a sentence of four months' periodic detention, and the other was released on probation on terms that he made substantial compensation. I do not wish it to be thought that receivers of stolen property who are operating a business of receiving can necessarily consider that they should be dealt with in the same way as the thief. Thefts do not occur unless property can readily be disposed of, and the spate of thefts that are going on in the community are very much related either to people like this appellant who deliberately purchase stolen property or to others who prefer to appease their consciences by not enquiring too deeply as to the whereabouts of these goods that

become available on the market in the most extraordinary circumstances.

I am quite satisfied that the policy of making it clear to receivers of stolen goods that their efforts will not be profitable is wise, and in any event there are different personal circumstances which will relate to offenders that make a simple comparison of sentences of little assistance. The mere fact that District Court Judges took the view that something short of imprisonment could be imposed on two burglars is not a ground for treating the receiver of the stolen property in the same way.

The other two matters advanced on his behalf relate to his conduct after the offence and his previous convictions. In this respect the appellant acted unwisely in declining legal representation. It is quite apparent from the submissions made on his behalf that there were matters of emphasis that could have been brought to the attention of the District Court Judge had he been legally represented at the hearing that probably were not done by him. It is significant that the prosecution have acknowledged that he voluntarily disclosed the offence and that without his full cooperation the police would have been unable to sort these matters out. He is entitled to a substantial benefit in respect of that by way of the appropriate sentence.

His previous convictions present an unusual pattern. He was convicted of burglary some seven years ago and since then has been before the Court on a number of occasions. They are matters of wilful damage, common assault, fighting and drug and alcohol related crimes but not involving dishonesty. He again acted ill advisedly in informing the probation officer that he wanted nothing to do with community service or periodic detention, and having given that no doubt considered view to the

probation officer it ill becomes him to complain now that he has been sentenced to prison. I am satisfied, however, that in the circumstances of this man who committed a crime of dishonesty for the first time since seven years ago, and who has not previously been in prison, a period of nine months was longer than was required and in the circumstances that period was excessive.

The appeal will be allowed, the sentence quashed and in lieu thereof there will be a sentence of three months' imprisonment.

*A D Holland J*