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IN THE HIGH COURT OF NEW ZEALAND
TIMARU REGISTRY

GR 137/83

141

BETWEEN RONALD PAUL JOHN McNICHOLL

Appellant

A N D THE POLICE

Respondent

Hearing: 9 February 1984

Counsel: I.G. Mill for Appellant
G.D. Pearson for Respondent

ORAL JUDGMENT OF ROPER J.

This is an appeal against concurrent sentences of eight months imprisonment on four charges, two of permitting a 15 year old boy to do indecent acts upon him and two of doing indecent acts upon the same boy who at the relevant time was 15.

Between the 3rd and 26th September last the 15 year old, with his parents' permission, went to Picton and Queenstown with the Appellant who was a friend of his family. The indecency occurred during these trips away. On 5th October the boy told his mother what had happened. Apart from the other acts of indecency he did allege that sodomy had taken place but apparently there was no medical evidence to support that and the Appellant denied it. When interviewed the Appellant was quite frank, admitting that the acts took place at Picton, Christchurch, Queenstown and Dunedin in his caravan and at motels. He stated that he intended seeking medical assistance. After complaining to his mother the boy complainant made some attempt, which could not have succeeded, at taking his own life by taking an overdose of tablets, so that it is apparent that apart from other problems he has there was some reaction to the Appellant's conduct.

The Appellant is 37, single and has no previous convictions. The medical report indicates that apparently

the Appellant has the ability to benefit from psychotherapy and despite an opinion expressed by the Probation Officer supports the view that the Appellant is remorseful and was concerned at the prospect of imprisonment. He has already served some two months of his term as he did not apply for bail.

It has been submitted by Mr Mill that the term should be reduced. In his comments on sentencing the learned Judge referred to this as being a difficult case, and with that I agree, but in the final analysis he felt it was the public interest that must take priority. He referred to the fact that the complainant was a son of the Appellant's friend and that there had been a betrayal of trust, and that these incidents had occurred while the boy was away with the Appellant and, I might note, in a position where there was no one to whom he could have turned for aid.

Having regard for the maximum penalty and the circumstances of the case, it is impossible to say that the sentence was manifestly excessive or inappropriate and accordingly the appeal is dismissed.

Solicitors:

Clark & Mill, Timaru, for Appellant
Crown Solicitor, Timaru, for Respondent