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IN THE HIGH COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY

M.156/84

BETWEEN ANTHONY ALLAN MASON

630

Appellant

A N D THE POLICE

Respondent

Hearing: 23 May 1984

Counsel: T.W. Fournier for Appellant
A.M. McIntosh for Respondent

ORAL JUDGMENT OF ROPER J.

This is an appeal against a sentence of twelve months' imprisonment on a charge of unlawfully taking a motor vehicle. At the relevant time the Appellant was in the company of two others, one of whom apparently took the car and the other two then got into it. The co-offender who took the car was sentenced to three months' periodic detention and the third offender, the Appellant's brother who has at least a comparable list of previous convictions to the Appellant, was admitted to probation for twelve months.

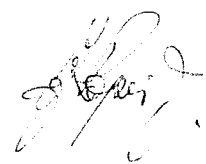
The Appellant is 24, he has a long list but a two year break from 1981 when he had the stability of a de facto relationship and a daughter. It was following the breakup of that association that the present offence occurred. The Probation Officer said:-

"Obviously upset about his wife and daughter going away from him Mason set off to go home to his father but with the persons he chose as companions he became involved in these offences."

The vehicle they took was used to travel from the ferry terminal in Wellington to Tokomaru. The Probation Officer actually recommended periodic detention but as the Appellant has already had five terms of periodic detention the learned sentencing Judge did not see that as an appropriate answer.

In all the circumstances, having regard for the Appellant's involvement and the gross disparity in sentences I am satisfied that a sentence of twelve months' imprisonment on this charge was manifestly excessive. However it still calls for a sentence of imprisonment but hopefully one which will enable the Appellant to undertake some form of training to meet the disability he suffered as a result of an accident.

The appeal is allowed with effect that the sentence is reduced to one of six months' imprisonment to be followed by twelve months' probation.



Solicitors:

Loughnan Jarman & Co., Christchurch, for Appellant
Crown Solicitor, Christchurch, for Respondent