

IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

M.638/84

926

BETWEEN M PILCHER
Appellant

A N D POLICE
Respondent

Counsel: A.C. Roberts for Appellant
D.P.H. Jones for Respondent

Hearing and
Judgment: 7 August 1984

ORAL JUDGMENT OF SINCLAIR J.

This young man got involved because of his association with a friend in a disgraceful episode in a hospital. It resulted in his being arrested for assaulting a Police Officer and also obstructing one in the course of his duty, but it was found by the District Court Judge that his role was somewhat secondary. It appears that he may have become firstly involved by reason of his attempting to intervene but then matters got out of hand and due to the fact that Pilcher had consumed quite an appreciable amount of liquor, his better sense of judgment gave way and he became more embroiled than he should have.

He was sentenced to 3 months' periodic detention and it is only with the greatest hesitation that I interfere with that sentence because there has been a great deal of

publicity of late with regard to disturbances at hospitals, which happen usually on a Saturday night as a result of people attending there who have had far too much to drink and the deterrent aspect is one which the Courts must bear in mind.

What impresses me is that this young man is a first offender and while he may richly deserve periodic detention, the Probation report shows that he is not in need of supervision so it is a question of punishment rather than anything else and having had a clear background at least, he can call upon that in aid at this particular time. The fine I am about to impose now will bring it home to him somewhat dramatically that it might have been better to have undergone the periodic detention and he is only going to have a limited time within which to pay the fine, because if it is not paid within the time fixed, he will be brought back here and I will deal with him immediately with regard to non-payment of fine by imposing a substitution of sentence.

On the charge of assault on the Police Officer, the sentence of 3 months' periodic detention is set aside and you are find the sum of 500 dollars and Court costs 20 dollars.

That fine is to be paid within 14 days of this date and if it is not so paid, you are to be brought back before this Court to be dealt with and on the basis that this offence is a serious one and having regard to the seriousness of the offence, it is not one where I am prepared in the

circumstances to allow the ordinary rules to apply.

In respect of the other offence, the sentence of 3 months' periodic detention is set aside and on that charge you are convicted and discharged and ordered to pay Court costs of 20 dollars, also to be paid within 14 days of this date.

P. B. Esq.

Solicitor for Appellant: A.C. Roberts Esq., Auckland

Solicitors for Respondent: Crown Solicitor, Auckland

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