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IN THE HIGH COURT OF NEW ZEALAND  
GREYMOUTH REGISTRY

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No. M.13/84

BETWEEN    GRAEME STUART RYALLS

Appellant

A N D        GREYMOUTH POLICE

Respondent

Hearing:    27 August 1984

Counsel:    M.J. Glue for Appellant  
              Miss K.P. McDonald for Respondent

Judgment: 27 August 1984

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ORAL JUDGMENT OF O'REGAN J

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The appellant pleaded guilty to one charge of burglary in the Greymouth District Court on 18 April last and was sentenced to be imprisoned for 9 months. He now appeals against that sentence and Mr Glue on his behalf has informed me that he is due to be released from Prison on 31 October and has submitted that in all the circumstances it would be appropriate to reduce the sentence so that he would be now released and to substitute for the remainder term of imprisonment periodic detention.

The appellant is no stranger to the crime of burglary and as long ago as 1978 was imprisoned for 2 years in respect to some seven charges of that offence. He had scarcely been released from Prison when, on 16 June 1980, he was again convicted of burglary and on that occasion sentenced to periodic detention for 3 months. Since that time he has been convicted of several other crimes of

dishonesty, receiving stolen property on 17 June 1982 and burglary on 6 August 1982. In respect of some of those charges of burglary he was sentenced to be imprisoned for 18 months. On 26 October 1983 he was again convicted of burglary in Greymouth and was sentenced to non-residential periodic detention for 5 months. I am informed from the bar and, indeed, it is confirmed otherwise, that the appellant has a drink problem but Mr Glue has been able to tell me from the bar today that he has been making strenuous efforts to overcome it. He has recently formed an association with a woman in Greymouth who has her own home and has three children and she has confirmed that there is an understanding that they are to marry. It could well be that the stability of a home and an association like that might stand him in good stead.

But, be that as it may, the question is whether the sentence of 9 months imprisonment in the circumstances can be said to be excessive. The crime involved breaking and entering of a grocery shop and the stealing of \$908-worth of goods. The appellant was immediately apprehended and gave his explanation for the offence that he was desperate but apparently he did not elucidate.

Having regard to his previous record, I do not hold the sentence was excessive. And having regard to his recent history in respect of periodic detention I am not at all convinced that to allow him periodic detention at this stage would be of any useful purpose. The Probation Report shows that he was cavalier as to his periodic detention quite recently and, as recently as 14 March last,

he was fined \$70 for breaches of his periodic detention sentence. The appeal is dismissed.

*Henry J. Glue*