26/11

IN THE HIGH COURT OF NEW ZEALAND M 567/84

WELLINGTON REGISTRY

1439

BETWEEN: RANGI TOSS TEKIRA

Appellant

A N D: THE POLICE

Respondent

Hearing: 21 November 1984

Counsel: Mr C. La Hatte for Appellant
Mr J.B.M. Smith for Crown

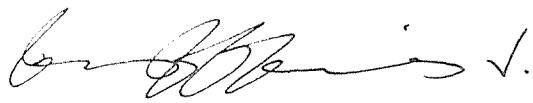
Judgment: 21 November 1984

ORAL JUDGMENT OF JEFFRIES J.

Appellant in this case was charged with four separate offences of burglary, all taking place on the 17th day of August 1984. It is relevant to remark here that on the 10th day of August 1984, that is one week before these offences took place, he was sentenced to non-residential periodic detention for three months arising out of a charge of burglary. It is also relevant to remark that appellant has an extensive list of previous offending, including many charges for burglary. He has been sentenced to several periods of imprisonment but none for as long as the present one against which he appeals.

Those burglaries committed on the 17th of August all took place in one building complex on Karori Road. The total amount of goods stolen was $20,000 or more, and most of that property has been recovered excepting about $6,000 worth. Mr La Hatte informs the court that the proceeds from that property were used on an alcoholic and marijuana spree.

Some matters can be advanced in favour of appellant and they are that for a period from 1978 until 1982 his record indicates it was practically free of criminal offending. Possibly that reflected a more stable background which seems came to an end with separation from his wife not long before these offences were committed. Mr La Hatte has advanced almost every thing that can be said on behalf of appellant and laid emphasis on the disturbed emotional state arising out of the separation, but nevertheless, there could be no excuse for the utter rejection of the extreme leniency that had been accorded him only a week before these offences took place. They were determined, well planned offences and and a very large amount of property was taken, although much of that has been recovered. The learned sentencing judge in his remarks when he sentenced on 13 September 1984 seemed to take all these matters into account that I have referred to above, and Mr La Hatte said that the submissions he has made to this court were in fact before that sentencing judge. For an appeal to succeed it must be shown that the decision of the lower court was manifestly excessive and that could not be said in this case. The appeal is dismissed.



Solicitors for Appellant: Rainey Collins Armour & Boock

Solicitors for Respondent: Crown Solicitor, Wellington