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BETWEEN I WEST
Appellant
AND POLICE
Respondent

Hearing: 4 February 1984
Counsel: K. Ryan for Appellant
 Moore for Respondent
Judgment: 4 February 1984

(ORAL) JUDGMENT OF PRICHARD, J.

This is an appeal against a sentence of 9 months imprisonment imposed on the Appellant in the District Court at Auckland on conviction of the offence of escaping from lawful custody. The Appellant was represented at the hearing in the District Court by the duty solicitor but I understand that the reasons which the Appellant says drove him to make an escape from Mt. Eden Prison were not fully canvassed.

In brief the Appellant says he was subjected to threats to his life, designed to force him to make affidavits and to give evidence in the interests of a man serving a life sentence for murder. Mr Ryan has produced to me a number of threatening notes which were received by the

Appellant while in prison. I am persuaded that he was indeed subjected to threats of a serious and, to a person in prison, of a terrifying nature.

The Appellant has a lengthy list of previous convictions. At the time of his escape he was serving a total of three years imprisonment imposed on 8 August 1984 on charges of false pretences and also concurrent sentences on charges of burglary and receiving. He made his escape, with the assistance of two other persons on 10 October 1984.

I am completely satisfied that the threats made were real and that the Appellant was genuinely in fear for his life; it was these threats which led the Appellant to make his escape.

I am informed that he was co-operative when he was apprehended in Wellington and also that he is now in protective custody at Paeremoremo where, hopefully, he will not be in any further danger.

In all the circumstances, I am satisfied that it is proper for me to allow this appeal. The sentence of 9 months imprisonment is set aside and in substitution therefor a sentence of one months imprisonment is imposed.

John P. Ireland J.