

GGH

IN THE HIGH COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY

No. T.3/84

JUN 1990

R E G I N A

v

JASON DEAN BULMAN

Sentence: 24 February 1984

Counsel: B.M. Stanaway for Crown
S.C. Barker for Bulman

SENTENCE OF HOLLAND, J.

Bulman, you were convicted by a jury in a trial before me earlier this week on a charge of wounding with intent to injure. I remanded you for sentence to today for several reasons, one because you are so young and it seemed to me desirable that a decision should be made as to the sentence at the earliest possible opportunity, but the other was because your counsel informed me that you were due to appear for sentence in the District Court at Christchurch yesterday on a number of other charges. He suggested to me that the District Court Judge might consider it appropriate in the circumstances to decline jurisdiction so that you would be sentenced for all matters in respect of which you are awaiting sentence by the one Judge at the one time. I indicated that I thought that was the proper course and I had anticipated that this morning I would have all matters before me.

The District Court Judge has apparently decided that it is appropriate for him to impose sentence on you after this Court has done so. There may be special reasons why that should be so, but it is in general wrong. It is desirable that a person who is before any Court for sentence should, where possible, be sentenced by the one Judge for all matters to be taken into account at the one time and it is indeed unfortunate that the District Court Judge did not decline jurisdiction as I had expected him to do.

I do not want to use you as an example and simply have you going to and fro to the District Court, and were it not for my feeling for you I would simply decline to sentence you now and say if the District Court Judge insists on sentencing you first then this Court which is superior in the hierarchy will decide the appropriate sentence at the end and not the District Court. That would be unfair to you so in imposing sentence on this charge of wounding with intent to injure I am taking into account that you have pleaded guilty in the District Court and are awaiting sentence on two charges of breaking and entering and two of unlawfully taking motor vehicles. It is not competent for me legally to impose a sentence on those charges and that must be left to the District Court, but I make it clear that the sentence I am about to impose upon you on the wounding charge takes into account those other matters and I would expect the sentence that is ultimately imposed to be one that is concurrent with the sentence that I now impose because you should not be facing a series of separate sentences at this time.

Having said that, you now present a problem. I am satisfied that you, with two or more persons, intending to cause trouble went to this hamburger bar and that although you did not start the violence when the hamburger bar proprietor assaulted two persons you decided you would deal with him and you took out a knife for that purpose and you stabbed him on four occasions. The use of a knife in circumstances like that, and a conviction on a charge of this kind, carries with it a sentence of imprisonment up to seven years. I accept that this was not one of the most serious charges of this kind and it was to some extent provoked by the victim. Nevertheless, were you an adult I have not the slightest doubt that the proper sentence would be one of two years imprisonment.

I propose to reduce the appropriate sentence for the crime because you are but fifteen years of age. The question of how much I reduce it, however, has concerned me. The probation officer and your counsel have suggested that if I impose some form of institutional punishment there is a risk of your becoming institutionalised. In your case I do not understand that submission. I have a great deal of sympathy for you because you have got yourself into a terrible situation but from the age of 13, and probably earlier, you have rebelled. You have been expelled from school, your parents have been unable to discipline you, the Department of Social Welfare into whose care you were placed were unable to influence you successfully, and I just do not understand the submission that there is a risk of your becoming institutionalised. What is quite clear is that being outside of an institution has shown that you are unable to cope with society.

Now, I do not want you to think that I am just here giving you a lecture. I have got to punish you. I also want to help you. It is quite apparent from your behaviour and from what happened to you when you were at Kohiteri that you have got the capacity to do well. You have got the ability to learn and the first thing you have got to do is learn to read. Now the reason why you cannot read you may think is other people's fault, and it may be to a certain extent, but it is mainly your fault because you have simply rejected everything that has been offered to you. Now you will become institutionalised if you carry on refusing to learn, and by that I mean refusing to equip yourself to get a job. I am satisfied that you need a considerable period of discipline but also where educational facilities are available for you. No-one can make you learn to read. No-one can make you be fitted to work. But if you have now recognised, and there is reason to believe that you might, that life is going to be very difficult for you if you are unable to get a job because of your lack of education you had better try and do something about it and the only person who can make that decision is you. You did well when you were at Kohiteri. You can succeed. You must have had some pride in the fact that you did do well there and it was recognised. It is time you started to have some pride in yourself again. I am satisfied that you are in need of that opportunity and it will have to be for some substantial period.

Although I must not take into account the remission which comes to prisoners in imposing the sentence I am not doing so because I am reducing the sentence because of your youth, but I consider that you are in need of institutional training and

education for a minimum period of very nearly a year. I take into account that you have already been in custody for three or four months which has not done you any good because in that period you have merely been a remand prisoner with no-one being worried about your welfare. The prison authorities will be worried about your welfare if you show an inclination to learn. If you do not show an inclination to learn then you will be back in prison because you will carry on behaving the way you have and then sadly the community will have to say it is better off with you in prison than out because you are a menace. I hope that won't happen. I hope that with your youth you can recognise most of your life is still ahead of you. There is an opportunity to change it.

You are sentenced to fourteen months' imprisonment.

A. D. Holland

