

IN THE HIGH COURT OF NEW ZEALAND
HAMILTON REGISTRY

M.488/84

1693

BETWEEN: CHRISTOPHER MORRISON
BROWN
Appellant

A N D: POLICE
Respondent

Hearing: 18 December 1984
Counsel: Ms Mills for Appellant
Mr Almao for Respondent

ORAL JUDGMENT OF BISSON, J.

This is an appeal against a sentence of two years imprisonment imposed on a young man eighteen years of age.

On 7 September 1983 he had been sentenced to Corrective Training in respect of about twenty convictions for crimes of dishonesty and regretfully he comes before the Court again not long afterwards in respect of a large number of offences, including theft, the unlawful taking of a motor vehicle, breach of Probation, and ninety four charges of false pretences relating to the misuse of his credit card.

The learned District Court Judge was faced with a difficult task in sentencing this young man in the light of that performance

and the Probation Officer's report says "In interview he appears to have all the hallmarks of a false pretencer and this is supported by the general impression gained of him by previous supervising Probation Officers."

In sentencing the Appellant, the learned District Court Judge said: "Clearly you have decided that a life of crime is the lifestyle you want to adopt and until you get the message that you cannot get away with it, then I am certain you are just going to do whatever you feel like doing, even if it means breaking the law and taking other people's property."

Further on he said: "I am certain you have to be deprived of your liberty for a lengthy period of time to give you time to reflect. Corrective Training has been tried in the past and has failed. Hopefully a lengthy period of time at a youth prison might sort out your dishonesty problem and ensure that you don't offend again. I am certain that nothing else is likely to succeed."

The question as I see it is whether, in adopting that approach, the sentence of two years imprisonment went a little too far, and as Ms Mills submitted, it might well have a deleterious effect on this young man's future. He certainly started badly. His behaviour could be made even worse by a term of imprisonment which is just too long for a person of his age to endure. He also had some six or seven weeks in custody awaiting a Probation Officer's report.

I agree with the basic approach of the learned district Court Judge, but here you have really a young man who has committed two sets of offences, not far apart, so that he has not yet, fortunately, resorted to a life of crime over any lengthy period.

I feel that the sentence of two years imprisonment is clearly excessive in all the circumstances, but nevertheless a lengthy term is called for when one considers the large number of offences and their serious nature. Corrective Training apparently was not the cure.

Taking into account the youth of the Appellant, the appeal will be allowed and the sentence of imprisonment reduced to one of fifteen months.

Ed. M. Jones