

BETWEEN

DICKEY

Appellant

A N D THE POLICE

Respondent

Hearing: 16 May 1984

Counsel: D.C. Fitzgibbon for Appellant
 G.K. Panckhurst for Respondent

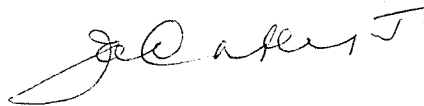
(ORAL) JUDGMENT OF ONGLEY J.

DICKEY appeals against a sentence imposed upon him in the District Court at Christchurch on the 20th of January, on a charge of unlawfully taking a motorcar. At the same time, he was convicted of theft of a radio from the car, valued at \$60, and of having possession of cannabis plant which was an incidental matter which came to light after he had been arrested.

Mr Fitzgibbon, on behalf of the appellant, concedes that a term of imprisonment was an appropriate sentence, but says that in all the circumstances, a term of 12 months imprisonment was excessive. He points to the fact that at the time of the taking of the motorcar, the appellant was heavily intoxicated and that the offence was a spur of the moment offence. I think both those submissions are probably right and that they go together; that he was affected by liquor, had not thought about this matter, but allowed the whim to take him and on the spur of the moment took the motocar.

However, neither of those things, in my view, offer much of an excuse for the crime which he committed. The taking of motorcars so often occurs when people are affected by liquor and their inhibitions are less under control than they are in sober moments.

The appellant has a long list of previous offences some of which are quite a long time ago but they show something of a pattern through the years and part of that pattern is that the appellant has tended to treat other people's motorcars as his own when he feels the urge to do so. He has three offences, as I see it on a cursory reading of the list, and on at least two of those occasions he was sentenced to nine months imprisonment. Though he was perhaps drunk on this occasion, he well knew the penalty that was likely to be incurred for an act such as this but he chose to go ahead and do it. To my mind, it cannot be said that the years imprisonment for the taking of the motorcar in these circumstances is an excessive penalty. I tend to think that it is quite a usual penalty and that the personal history of the appellant has, on this occasion, not entitled him to any leniency from the Court and the penalty imposed by the District Court Judge was a proper one. The appeal is dismissed.



Solicitors

D.C. Fitzgibbon, Christchurch, for Appellant
Crown Solicitor's Office, Christchurch, for Respondent.