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IN THE HIGH COURT OF NEW ZEALAND
TIMARU REGISTRY

GR 73/84

914

BETWEEN _____ GEE
Appellant

A N D THE POLICE
Respondent

Hearing: 18 July 1984

Counsel: B.D. Young for Appellant
N. Scott for Respondent

ORAL JUDGMENT OF ROPER J.

This is an appeal against a sentence of four months' imprisonment and an order for restitution in the sum of \$2,586 on terms on 7 charges of burglary in rural areas around Timaru, and 3 thefts which I apprehend were thefts following a burglary. The value of the property was nearly \$12,000, of which nearly \$7,000 worth has been recovered with the Appellant's co-operation.

The offences were committed in the company of the Appellant's cousin who was also sentenced to four months' imprisonment, he being charged with an additional burglary where there was \$5,000 involved. These offences occurred over a period of about four months. The Appellant went voluntarily to the Police after his cousin had been apprehended and thereafter co-operated with them.

Mr Young has submitted that this sentence is manifestly excessive and further that a change of circumstances has made the sentence inappropriate in that the Appellant now has employment with a timber firm in a specialized job and his employers are anxious to retain his services. The Appellant is 20 and has only one conviction of any relevance and that was for theft at the age of 15. It has been submitted that he was co-operative and indeed disclosed offences with which he had not been

connected. I have read some glowing testimonials presented to me.

As indicated to counsel, it seems to me that this was a case for a prison term to the order of 18 months to 2 years, otherwise a community-based sentence. A four month term can hardly be called a deterrent and at this stage the only result of it will be that the Appellant will lose his job and there will be very little prospect of any restitution. I am satisfied that the sentence imposed was inappropriate in the circumstances.

The appeal is allowed and in lieu the Appellant is sentenced to 12 months' periodic detention and 12 months' probation to run concurrently. He is to report to the Centre at 39 High Street at 6 p.m. on Friday and thereafter on such occasions as shall be specified by the Warden; to place himself in the custody of the Warden for 9 hours on one such occasion in each week and up to 4 hours on each other occasion as the Warden shall specify. The order for restitution is to stand.



Solicitors:

Petrie Mayman Timpany & More, Timaru, for Appellant
Crown Solicitor, Timaru, for Respondent