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BETWEEN EDWARD GROOTEGOED of  
Henderson, Welder  
Appellant

A N D THE POLICE  
Respondent

Offence: Burglary (1)  
Possession of an offensive weapon (1)  
Breach of Periodic Detention (4)

Dealt With 2 August 1984 At: Henderson By: MacLean DCJ  
Sentence: Imprisonment 11 months

Appeal Hearing: 21 September 1984

Counsel: M A Edgar for appellant  
D B H Jones for respondent

Oral Judgment: 21 September 1984

Decision: APPEAL DISMISSED

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ORAL JUDGMENT OF HENRY J.

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This is an appeal against an effective sentence of 11 months imprisonment imposed as to 9 months on one charge of burglary and a two month sentence cumulative in respect of a charge of possession of an offensive weapon, and four charges relating to breaches of a sentence of Periodic Detention.

The primary and indeed the only submission made in support of the appeal is that the imposition of a sentence of imprisonment was inappropriate in the circumstances, and

that the provisions of s.48A of the Criminal Justice Act should have been invoked instead. Although it is clear that the appellant has, and has had for some time, what could be described as a drinking problem, I think it is also clear that the nature of the offences for which he was appearing for sentence on this occasion and the gravity in particular of the burglary offence, made the imposition of a sentence of imprisonment virtually inevitable.

It is clear from the sentencing notes provided through the District Court that the learned District Court Judge took into account the three full reports which had been provided to him, and indeed the appellant was stood down for some time whilst those reports were considered. The Judge also expressly took into account the provisions of s.48A and having done that decided he was not prepared to make an order pursuant to those provisions. Nothing which has been said this morning indicates to me that in any way the failure to operate under the provisions of that section could be said to be inappropriate, and in my view the offences each called in this particular case for the imposition of a sentence of imprisonment.

Accordingly, as there can be no question of the length of imprisonment being excessive, the appeals must be dismissed.

*Henry J.*