

*nr Law Reports*  
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*J*

IN THE HIGH COURT OF NEW ZEALAND  
HAMILTON REGISTRY

M.496/85  
A.P. 10/86

*Name*  
*Suppressed*

*247*

**NOT  
RECOMMENDED**

BETWEEN

H

Appellant

AND

P O L I C E

Respondent

Hearing: 13 March 1986

Counsel: Mr de Jong for Appellant  
Mr Almao for Respondent

Judgment: 13 March 1986

ORAL JUDGMENT OF ELLIS, J.

Appellant was convicted in the District Court on a plea of guilty to a charge of theft as a servant. On her own admission she had stolen approximately \$1,000 which she had used for household expenses including payment of hire purchase commitments. She had previously appeared for a similar offence in 1981 when she was sentenced to 100 hours community service and placed on probation for two years. On that occasion I am informed from the Bar, her name was not suppressed.

Following hearing of the plea in mitigation the District Court Judge sentenced appellant to four months non-residential periodic detention and refused to suppress publication of her name. In his view the public interest in having her identity disclosed outweighed her personal circumstances as shown in a full report from a psychiatrist dated 20 December 1985.

In the ordinary course of events this Court would not interfere with either the sentence or the refusal to suppress the name both being entirely appropriate to a second offence of this sort.

The position of the appellant has, however, to a certain extent been clarified by what has happened since. She has undertaken in conjunction with her husband, counselling at Tokonui Hospital and Mr de Jong has provided the Court with a report from the psychiatric social worker dealing with the case. It is plain that the appellant's household, including her husband and two children has been under considerable stress as a result of the appellant's offending and the Court can accept that efforts to deal effectively with the appellant's problem will be jeopardized by publicity of her name.

It is, therefore, necessary for this Court to assess again the ordinary and proper expectation that people who steal in these circumstances will become known as they pass through the Courts, against the personal and acute problems that the appellant and her family are facing. I bear in mind that publicity of the appellant's name at this stage may well not make her position better known as far as the public is concerned. If she is to apply for another job any prudent employer would require references from her previous employment and they would thereby be alerted of the problem. It is true of course that the appellant may manage to deceive a future employer by not disclosing her past.

In this particular case the Court is moved by the positive steps taken by the appellant and her family and by the report

from the hospital that treatment is having apparently positive results. That being so the Court is prepared to allow the appeal by ordering that nothing shall be published which will identify or tend to identify the appellant by name or otherwise. The order for suppression of course backdates to 16 January 1986.

In respect of file A.P. 10/86 it now remains to deal with the sentence of four months periodic detention. As I have said, in this Court's view that is an entirely appropriate sentence under the circumstances. The appellant will, therefore, be required to report to the Centre at 1 Hill Street, Hamilton at 6.00 p.m. this coming Friday and thereafter commence her sentence as imposed by the District Court.

In addition there is before me file M.496/85 which is an appeal against a refusal in the District Court for interim suppression of name pending sentence in that Court. The decision that I have just made renders that application unnecessary. It will accordingly be dismissed.

There will be no order as to costs.

*André G. J.*