1916

IN THE HIGH COURT OF NEW ZEALAND
INVERCARGILL REGISTRY

A.P. No.35/89 & 36/89

435

BETWEEN SCOTT MASON HANNA
JOSEPH DAVID CULLEY

Appellant

A N D POLICE

Respondent

Hearing: 9 June 1989

Counsel: J.S. Fairclough for Appellants
R.E. Neave for Respondent

Judgment: 9 June 1989

ORAL JUDGMENT OF TIPPING, J.

These are appeals by Joseph David Culley and Scott Mason Hanna against sentences imposed on each of six months imprisonment on a charge of burglary. They each played different parts in the burglary but it was accepted in support of the appeal that they were equally blameworthy. They entered pleas of guilty. The burglary was one of a doctor's surgery, although it is claimed on their behalf that they did not enter the premises knowing that it was a surgery. They entered simply thinking it was a residential property in order to try and get some money. They had both recently been released from prison only a matter of a few days before the crime in question. The

submissions made on their behalf were that the sentence was inappropriate or that it was manifestly excessive.

Mr Fairclough in his submissions in support of the appeal referred to the fact that the burglary was one of a residential property rather than one committed knowingly against a doctor's surgery. While that might mitigate to some extent I entirely agree with the learned Judge in the District Court that burglaries of residences must be treated with seriousness. I note that nothing was taken and that there was co-operation with the police. It was said that the motivation for this crime was that having recently been released from prison these two Appellants had insufficient money to get themselves to Christchurch where their families live.

The submission was that periodic detention would have been a more appropriate sentence to give them time to assimilate themselves into the community. It was also mentioned that Mr Culley saw it as futile that he should go back to prison. Perhaps he should have had that thought before he committed this burglary. I agree with the Crown's submissions made by Mr Neave that burglary is in any circumstances a serious crime leading to the Court giving serious consideration to imprisonment. It is clear from the learned Judge's remarks that it is a prevalent crime in the Invercargill area. The Appellants had just been released from prison. They were still subject to parole. Such claim as they make by reason of their youth fits not well with their records.

Mr Fairclough has done his best with difficult material.

I have no doubt whatever that neither ground for intervention by this Court is made out. The appeals are dismissed.