

IN THE HIGH COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY

A.P. No.137/90

BETWEEN

EASTON

Appellant

A N D

JUSTICE DEPARTMENT

Respondent

Hearing: 21 June 1990

Counsel: Ms J.A. Farish for Appellant
M.N. Zarifeh for Respondent

Judgment: 21 June 1990

ORAL JUDGMENT OF TIPPING, J.

This is an appeal against a sentence of seven months periodic detention imposed for non payment of fines totalling nearly \$2,500.00.

When the Appellant Easton came before the Court below on 30 April the Judge sitting indicated that he would be prepared to accept a commitment to pay at \$75.00 a week. At that time the Appellant indicated that the most he could afford was \$30.00 a week. One week later the Appellant obtained fulltime employment which included an obligation to work on a Saturday. The Judge had imposed the seven months periodic detention when the Applicant could not meet the suggested figure of \$75.00 a week but the nub of the matter is that within a week he was able to

do so and now his job is in jeopardy if he serves the sentence of periodic detention.

All things considered it seems to me in the circumstances to be far more satisfactory that he be given another chance to pay off the fines at \$75.00 a week. If, as I suggested to counsel, he had taken a gamble and agreed to pay at \$75.00 a week he would probably have been able to do so. As it turned out he was honest enough to tell the Judge at the start that was beyond his reach. It is now within his reach. I consider that he should be given a chance to demonstrate his good faith. The appeal is allowed. The sentence is quashed. The Appellant is directed to pay the fines at not less than \$75.00 per week. In the absence of any really compelling reason the Appellant, if he defaults on this obligation, can expect to be sentenced to seven months periodic detention the next time.

A handwritten signature in black ink, appearing to read "A. J. [unclear]", located in the lower right quadrant of the page.