

IN THE HIGH COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY

AP 230/91

**NOT
RECOMMENDED**

BETWEEN

PERRITON

Appellant

A N D

THE POLICE

Respondent

Hearing: 1st November 1991

Counsel: Appellant in person
R.E. Neave for Respondent

ORAL JUDGMENT OF WILLIAMSON J.

This is an appeal against a sentence of six months' periodic detention on a charge of theft. The sentence was imposed in the District Court at Christchurch on the 18th September. The only details available of the offence itself are those contained in a very short judgment of the District Court. That discloses that the Appellant was charged with stealing a computer watch game valued at \$49.95 from Dick Smith Electronics. The District Court Judge said that he was satisfied that the Appellant had in fact stolen the watch and he rejected the explanation which she had given about it. The sentence was passed immediately after his determination and without the benefit of any reports as to the Appellant's circumstances or of other sentencing options available.

In support of this appeal the Appellant has submitted: first, that periodic detention was not appropriate because of her particular

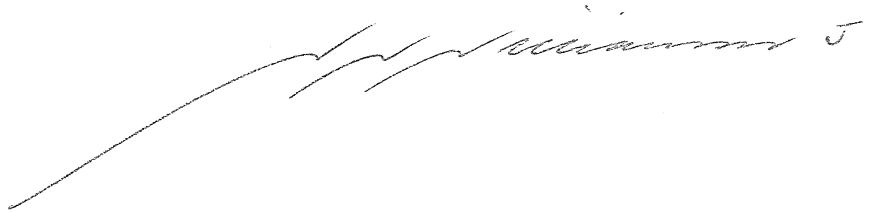
circumstances; and secondly, that the length of the sentence was excessive having regard to the value of the item stolen.

The Appellant is aged 30. She has two small children and is a solo parent. She has a number of previous convictions, including five for shoplifting. In the past she has been sentenced to fines, community service and in April 1989 was sentenced to three months' periodic detention. Additionally she was sentenced to seven months' periodic detention during the same month on a driving charge. Essentially the matters which she now raises in support of her appeal are matters of practicalities in that she has said that the changes in transport available between Belfast and Rangiora makes it virtually impossible for her to attend at the appropriate times and that the necessity to obtain care for her children and the cost of transport make the hardship of attending even greater and out of proportion to the offence itself.

Counsel for the Crown has indicated that in many such cases the warden of the Periodic Detention Centre is able to make appropriate accommodation for such difficulties. I am not sure that that is the case in this particular set of circumstances, but so that the Court can be properly informed about those details I now intend to adjourn this appeal until 14th November and require a report from a Probation Officer as to the practicalities of the Appellant being able to serve a term of periodic detention and alternatively whether or not community service would be available for her. It is, of course, necessary, before any such sentence is considered, for a report to be prepared and for the Appellant to consent to carrying out the particular community service. As I have indicated to the Appellant, on the face of it six months' periodic detention in respect of one item of this value appears to be out of proportion. The complication is her

previous history. It is not that she should be punished again for something that she did earlier, but rather that the passing of the previous sentences takes away options that might otherwise have been available to the Courts.

For the reasons I have given, this appeal will be adjourned until the 14th November on the basis I have indicated.

A handwritten signature in black ink, appearing to be 'William J', written in a cursive style.

Solicitors:

Crown Solicitor, Christchurch, for Respondent