

NZLR

IN THE HIGH COURT OF NEW ZEALAND
DUNEDIN REGISTRY

3/4

AP 9/92

**LOW
PRIORITY**

303

BETWEEN STACEY RONALD HILL

Appellant

A N D THE POLICE

Respondent

Hearing: 26th February 1992

Counsel: B. Whiting for Appellant
R.P. Bates for Respondent

ORAL JUDGMENT OF WILLIAMSON J.

This is an appeal against a sentence of 6 months' periodic detention imposed in the District Court at Dunedin on the 27th January 1992 in relation to 5 charges of obtaining by false pretences and 1 charge of fraudulently using a document.

The circumstances giving rise to these offences were that the Appellant found a cheque book belonging to a woman who had lost it while she was shopping at the Roslyn Shopping Centre. He had issued the cheques by signing them all in false names and then cashing them or paying for goods at grocery shops or garages. In total he obtained \$795 worth of credit and goods. When spoken to by the Police he admitted finding the cheque book and using the cheques. He told the Police that he thought he would be able to repay the money and wanted to do so.

The Appellant is a 19 year old. He is unemployed. He has previous convictions for burglary in respect of which no penalty was imposed but an order was made for reparation in the sum of \$504.83.

The Probation Officer in a short report said he found the Appellant to be a fiercely independent young man and he did not think he would benefit from supervisory sentences at this time. He recommended periodic detention. The District Court Judge accepted that recommendation saying that he regarded the Probation Officer as an experienced person and able to assess the Appellant and his motivation.

In support of this appeal Mr Whiting, as Counsel for the Appellant, has submitted that the sentence of periodic detention was clearly inappropriate for a number of reasons. In particular he has urged on this Court the view that the Probation Officer, in dealing quickly with the Appellant, has misunderstood or failed to place sufficient weight on his age, background and motivation to carry out a work skill training. Counsel submits that the Appellant is in fact happy to carry out such work skill training and that it would be considerably to his advantage to do so. He apparently told the Probation Officer that he did not wish to but that was without real consideration of what it meant.


For the Crown it is submitted that the sentence was not one which was clearly inappropriate; that there were a number of offences; and that the Probation Officer's recommendation pointed to the most appropriate sentence.

The Appellant, like so many, is from a broken home situation. He is only 19; unemployed. Although he has previously offended, he has

not ever been sentenced by way of fine or supervision or community service or community care. He pleaded guilty to these offences, which were in the nature of opportunist crime. He has been totally co-operative with the Police about the matter. The plea of guilty and the possibility of alternative available sentences was not referred to by the District Court Judge.

In my view this is a case where at this stage both the Appellant and the community could benefit if he were to carry out a course where he receives some job training and if in general his carrying out of that course and finances and lifestyle could be the subject of discussion and supervision between himself and a probation officer.

For those reasons then, I have reached the view in this case that the sentence of periodic detention was clearly inappropriate. The appeal is allowed and in substitution for that sentence I impose one of 12 months' supervision on each charge on the usual terms and upon the special terms that the Appellant undergo such course of work training and budgetary advice as the Probation Officer directs. As part of this sentence I also order that the Appellant makes reparation but in the sum of \$5 per week. That is a small amount, one less than the Appellant himself says that he could manage, but it is important both for him and for the persons who have lost as a result of his crimes that he make the effort on a regular consistent basis to reduce his liabilities.



Solicitors:

J. Ablett-Kerr, Dunedin, for Appellant
Crown Solicitor, Dunedin, for Respondent