

IN THE HIGH COURT OF NEW ZEALAND
DUNEDIN REGISTRY

31/7

AP 67/92

NOT
RECOMMENDED

1365

BETWEEN K HUGHES

Appellant

A N D THE POLICE

Respondent

Hearing: 17th July 1992

Counsel: Susan M. McLeod for Appellant
R.P. Bates for Respondent

ORAL JUDGMENT OF WILLIAMSON J.

This appeal concerns a year old sickness beneficiary who was sentenced to 18 months' imprisonment on a charge of indecent assault. The assault was not one of the more serious of that category in that it took place between the Accused and a 12½ year old and consisted of a non violent touching over clothes. The Appellant, according to the various reports on the file, is immature and backward with a low IQ. It is said that he is psychologically damaged; that he suffers from epilepsy; has severe emotional deprivation which has resulted in speech retardation; is a person who has himself been abused physically and sexually; and has had mental breakdowns.

The District Court Judge in sentencing clearly had in mind that the Appellant should attend the Kia Marama programme at Rolleston Prison in Christchurch. Today Counsel has advised the Court that the Appellant has been assessed for that programme but found unsuitable. At present he

still remains in prison. There is apparently nowhere else for him to go. On his behalf Counsel submits that he should be accommodated further in prison during the next week while efforts are made to determine what options might be available for his future and for an appropriate sentence which would recognise not only the crime committed but also the need to prevent him from reoffending or being offended against.

It is in my view essential that such inquiries are undertaken on an urgent basis. I direct that a further probation report be prepared to update the position and to present the Court with details of any options which are available for the residential or other care of the Appellant and for any programmes, courses or treatment that may be available. In preparing the report the Probation Officer may well wish to discuss all of those options with the psychiatrist who prepared a report, namely Dr Lewis-Barned, and the psychologist who has been assessing the Appellant while in prison.

The appeal will be adjourned until Friday next at 10 a.m. so that this report can be prepared. If it is possible for the Probation Officer to be present in Court at the resumed hearing that may also be of assistance in endeavouring to deal with this matter in an appropriate way.

For the reasons given, I make this direction and adjourn the appeal until Friday next at 10 a.m.

Solicitors:

Ross Dowling Marquet & Griffin, Dunedin, for Appellant
Crown Solicitor, Dunedin, for Respondent