

IN THE HIGH COURT OF NEW ZEALAND  
NAPIER REGISTRY

1/7

S 49/94

906

QUEEN

v

CHARLES PHILLIP WAMOANA

Sentence: 24 June 1994

Counsel: G A Rea for Crown  
Tania Davis for Prisoner

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**SENTENCE OF McGECHAN J**

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Charles Phillip Wamoana you appear for sentence upon one charge of aggravated robbery brought under s235(1)(b).

The brief facts are that on 28 February this year at 8.00pm you and an associate went to a Hastings address. It was intended to collect a debt due to the associate, or some relative of the associate, of \$160. It may be, as I am told through counsel, that you first called there, went away and then came back. It does not greatly matter. In the event you both entered by separate entrances. You yourself then proceeded to punch the complainant, and at least one or perhaps more of various others who were there, demanding money. Your associate stood meantime in the doorway waving a knife and telling all concerned not to move. You say you were unaware of his possession and use of a knife in that way, and after discussing the matter with counsel, I proceed to sentence on the basis it is not proved you were aware. You tore the telephone from the wall. You, or your associate, demanded and obtained the complainant's car keys.

You, or your associate, removed a video recorder and after a further unsuccessful check of the clothing of those who were there you both drove off in the car concerned. As what may have been a last gesture, you stole the complainant's tobacco and papers and lighter on the way out. The car itself was not taken far. It was recovered minus speakers and stereo. The video recorder taken from the flat has not been recovered. It was sold for \$50. The complainant suffered cuts and bruising. I have no victim impact reports. Those involved have proved difficult to contact, but I am informed, and I accept to your benefit, that it is not suggested they suffered any lasting emotional harm. Your explanation is that you had been drinking and had been smoking hash oil.

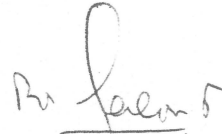
I note your personal background. You are 21, living with family and unemployed. I have very little other background information. You state you have a drug and alcohol problem, which you wish to address, and that may well be so. You have previous convictions which are youthful, and for burglary on 13 May 1993, for the latter of which you were imprisoned for a period of 9 months.

These business has its serious aspects. There was an intrusion into a private home at night. There were two of you. There were threats of violence. Having said that, I accept that an alleged threat to kill is not shown, and I put that to one side. There was the use of the knife by the associate although again I accept you were not aware of it. There is some property still unrecovered, and there is the recent previous conviction for burglary which I have mentioned.

On the other hand, there are the mitigating aspects. Your plea of guilty; your remorse which to the probation officer seemed genuine; your apparent willingness to face the substance abuse problems, and your youth.

When I come to sentence this is an aggravated robbery, and it involved some serious violence and in fact danger to safety. Despite mitigating factors imprisonment clearly is required. Amongst other matters there must be a deterrent message sent out against such behaviour. I treat it as in the lower category of such offending, but a serious enough example of its type, and a significant sentence is required. An order for reparation would be pointless, you have nothing.

You are sentenced to imprisonment for four (4) years. Stand down.



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**R A McGechan J**

**Solicitors:**

Crown Solicitor's Office, Napier  
Kelly, McNeil & Co, Hastings for Prisoner

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