

**IN THE HIGH COURT OF NEW ZEALAND
ROTORUA REGISTRY**

CRI-2009-463-36

ADEN STUART WEBB
Appellant

v

NEW ZEALAND POLICE
Respondent

Hearing: 25 June 2009

Appearances: Appellant in person
Ms S J Simmers for Respondent

Judgment: 25 June 2009 at 3 pm

JUDGMENT OF LANG J
[on appeal against conviction]

This judgment was delivered by me on 25 June 2009 at 3 pm, pursuant to Rule 11.5 of the High Court Rules.

Registrar/Deputy Registrar

Date.....

Solicitors:
Crown Solicitor, Tauranga
Copy to:
Mr A S Webb, Whakatane District

[1] Mr Webb pleaded guilty in the District Court to charges of burglary and breaching his bail.

[2] On 20 February 2009 His Honour Judge Rollo sentenced Mr Webb to 18 months imprisonment on the charge of burglary and two months imprisonment on the charge of breaching his bail. He ordered that those sentences were to be served concurrently.

The appeal

[3] Mr Webb now appeals to this Court against his conviction. His notice of appeal is in the following terms:

That the charge did not constitute the crime that was charge [sic] to me.

[4] During the hearing before me, Mr Webb submitted that the District Court did not have jurisdiction over him in relation to matters of tikanga and that he entered his guilty pleas under duress.

Decision

[5] As I endeavoured to advise Mr Webb during the hearing, arguments based on lack of jurisdiction cannot succeed. There are now numerous decisions of this Court and the Court of Appeal in which such arguments have been rejected. It is not necessary to go further than to say that this ground of appeal has no merit and cannot succeed.

[6] I similarly reject the argument based on duress. The sentencing notes in the District Court contain the following paragraph:

[17] I make one further comment, Mr Webb. Before I dealt with sentencing today I confirmed with you, in essence, that s 30 of the Sentencing Act 2002 has been complied with. That is, you confirmed that you did not wish to apply for legal aid or see a solicitor. You were aware that a sentence of imprisonment was likely. You confirmed you wished to act for yourself and you confirmed your guilty pleas to the two charges before me. ...

[7] It is clear that Mr Webb was quite prepared to plead guilty in the District Court. It is not open to him now to claim that he did so under duress.

[8] In any event, before he could show a miscarriage of justice he would need to demonstrate that he had tenable defences to the charges that he faced. Listening to Mr Webb today, it is clear that his defences would also be based for the most part on the issue of tikanga which I have held to be unsustainable.

[9] For these reasons the appeal cannot succeed and is dismissed.

Lang J