

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

CRI 2008-404-7358

BETWEEN DEPARTMENT OF CORRECTIONS
Applicant

AND DANIEL-LEE CHAVE
Respondent

Hearing: 17 November 2009

Counsel: C M Ryan for Applicant
M Down for Respondent

Judgment: 17 November 2009

(ORAL) JUDGMENT OF HEATH J

Solicitors:
Crown Solicitor, Auckland
Public Defence Service, Auckland

[1] Mr Chave pleaded guilty to one count of blackmail, one of burglary and one of sexual connection with a young person aged 12-16 years. He was sentenced by John Hansen J, on 11 November 2008. The sentence imposed can properly be described as merciful.

[2] Mr Chave was sentenced to 200 hours community work, to be served concurrently, on each charge. He was placed on supervision for a period of 12 months, with special conditions directed primarily at alcohol and/or drug counselling. There was also a reparation order requiring \$437.05 to be paid to the victim of the burglary.

[3] Mr Chave failed to engage with the probation officer. For all intents and purposes, none of the supervision sentence has been completed. There is some issue about the extent to which Mr Chave may have complied with community work. Some of the reparation has been paid.

[4] Application was made by a probation officer for the sentence of supervision to be reviewed and a sentence of imprisonment imposed.

[5] Mr Down has seen Mr Chave today and has discussed the application with Ms Ryan. Ms Ryan advises, on behalf of the probation officer, that the application could be dealt with if the original sentence were cancelled and effectively re-imposed, perhaps with some adjustments to reflect the need for the Court to mark Mr Chave's disregard for the lenient sentence that was imposed.

[6] I am satisfied, from what I have been told, that Mr Chave now has a more realistic attitude towards the need to comply with Court sanctions. I believe he now understands that should he not engage or carry out the sentences in accordance with my directions, he will very likely go to jail for some time. That should provide a sufficient incentive for compliance to be made.

[7] I would expect a probation officer to apply promptly if there were any defaults by Mr Chave with his obligations.

[8] The sentence imposed by John Hansen J on 11 November 2008 is cancelled. In its place, I impose the following sentences to take effect today:

- a) On each of the three charges on which Mr Chave was sentenced originally, he is sentenced to a term of community work of 200 hours. Those sentences are to be served concurrently.
- b) Mr Chave is subject to supervision for a period of 12 months. The following special conditions apply: he shall undertake alcohol and/or drug counselling as directed by a probation officer; he shall undertake such other counselling and/or treatment programmes as may be directed by the probation officer.

[9] In addition, there will be an order for reparation to the victim of the burglary of \$437.05. That amount, less the amount that has been paid to date, shall be repaid at the rate of \$10 per week with the first payment being made within seven days from today.

P R Heath J