

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

CRI-2009-485-131

NOAH WESLEY NATHAN

v

NEW ZEALAND POLICE

Hearing: 2 December 2009

Appearances: P Mitchell for Mr Nathan
G Mallet for the New Zealand Police

Judgment: 2 December 2009

JUDGMENT OF MALLON J

[1] Mr Nathan was sentenced in the District Court to 8 months' imprisonment on three charges. An appeal against that sentence was heard by me on 13 and 14 October 2009. The appeal was adjourned to enable enquiries to be made as to whether a suitable home detention address was available. (See *Nathan v New Zealand Police* HC WN CRI-2009-485-131 15 October 2009 for full details.)

[2] I now have the probation officer's report. The address is suitable providing Mr Nathan's partner and children do not reside at the address. I have before me a letter from the landlord advising that Mr Nathan's mother (who presently has the care of the children) will be moving out of the address for the duration of the home detention (should that sentence be substituted) and that Mr Nathan will reside at the address. I also have a statutory declaration from Mr Nathan's partner that she will

not be residing at the address for the duration of the home detention (should that sentence be substituted).

[3] The probation officer has recommended five conditions. Counsel are agreed that these conditions are appropriate. Counsel for the police also requests that the following two further conditions be imposed:

- a) that no other person is to reside at the address without the prior approval of the Probation Officer;
- b) that Mr Nathan is not to associate with his two sons except with the prior approval of the CYFS case manager (this condition does not, however, preclude telephone contact).

[4] Counsel for Mr Nathan does not oppose the imposition of these two further conditions. Counsel are also agreed that taking into account time already served in prison the home detention sentence should be for three months commencing from today's date. I agree with that.

[5] Accordingly the sentence of eight months' imprisonment is quashed. Mr Nathan is sentenced to 3 months' home detention commencing from today's date. This sentence is subject to the five conditions set out in the probation report together with the two further conditions set out in [3] above.

Mallon J

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