

IN THE HIGH COURT OF THE COOK ISLANDS
HELD AT RAROTONGA
(CRIMINAL DIVISION)

JUV Nos: 34/06,7-8/07,
84-86/07,89/06,15/07,
19-29/07,30-33,35-37/07,
40-44/07,66-77/07,
80-83/07,62-65/07,
54-61/07,150/07,15-6/08,
18-21/08,1013/08,1093-
1094/08,72-74/09

POLICE

V

DANIEL MARE
Defendant

Mrs Saunders for Crown
Mr Brown for Defendant
16 April 2009

SENTENCE OF DAVID WILIAMS CJ

1. Mr Mare, you come before the Court for sentence on 31 charges. They include 20 burglaries between March 2007 and January 2009. The Crown rightly describes you as a 'repeat burglary operator,' a recidivist burglar.
2. The Crown's approach has the endorsement of the Court involving you pleading guilty to a representative sample of charges. There were a significant number of charges withdrawn or not pursued. That was done because your offending is so great that the only realistic way to proceed was to take a selection of the charges and sentence you on those.
3. The Crown's approach also has the endorsement of the defence. It is fair and reasonable to do what is proposed by the Crown which is to take the lead offences of burglary charges and decide what is the appropriate sentence in respect of the burglary charges. Burglary carries a maximum sentence of 10 years imprisonment.
4. You carried out numerous burglaries of various buildings, generally, private dwellings but also hotels and offices in the town. The public is entitled to be protected from burglars and especially those like you who are completely uncaring as to what they are

doing and the harm they are doing. The Crown is right to say that the sheer raft of charges justifies a significant term of imprisonment.

5. The Crown has suggested 2 years. This is calculated by taking into account all of the many offences and having begun with 5 years imprisonment as a fair sentence in the totality of circumstances, reducing that significantly on account of your age and your guilty pleas.
 6. This sentence has to carry with it a strong element of deterrence and it is for that reason that I propose to sentence you to 2 years rather than the 18 months suggested by defence counsel.
 7. The message must go out to you and to any who are similarly minded that this community will not tolerate constant and repetitive invasion of their properties and their privacy. Accordingly on the burglary charges, you will be sentenced to 2 years imprisonment. All the burglary charges will carry that sentence but to be served concurrently.
 8. In relation to the other charges, the primary requirement is to record what would have been the appropriate sentence for those but then to provide that they will be served concurrently. The end result is that you will serve only 2 years imprisonment for all of your offending.
 9. It is obvious that you have been in trouble since a young man and you have caused great shame to your father in particular. Your mother has been very kind to you. She got you a bike because she thought that would help you avoid committing any unlawful behaviour. It had the reverse effect. You abused that gift and used the bike to carry out your wide ranging criminal enterprises.
 10. The Court is always placed in a difficult position when it has to deal with young offenders because there is a general policy of trying to avoid sending young people to prison. Experience has shown that in some cases sending young people to prison makes them worse, not better. However, I would be failing in my duty if I did not impose a significant term of imprisonment for the vast number of crimes you have
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committed for the trouble it has caused to a significant number of members of the public and because you did it recklessly without caring about anyone else.

11. It is encouraging to note that you have started giving some thought to your criminal behaviour while you have been in prison. Let me give you this piece of advice. This is your chance to reflect on your offending and to change your ways and to commit yourself to a different life when you are released. This will be a turning point for you. Hopefully you will learn the hard way from this term of imprisonment and thereafter lead a good life and become a useful citizen. If you revert to your previous behaviour, what you are facing is the rest of your life in and out of prison with longer and longer terms the more often the offending continues. I hope you will make the choice that is the right choice and do not come before this Court again.
12. What I will now do, because there are so many offences and I have approved what Crown counsel have said about the subsidiary offences is to give you this schedule in the submission and ask Crown counsel to take this submission and write the appropriate penalty alongside each charge. Show it to Mr Brown before I sign it, I do not wish to make any mistakes with such a large number of offences.
13. (After receiving schedule) I am going to impose to give me jurisdiction to do the disqualification, a fine of \$100.00, not because that represents the true fine I would usually impose but because there is imprisonment being imposed elsewhere. On the cannabis charge, there will also be a fine of \$100.00 and otherwise the terms will be as listed on this annotated schedule.



David Williams

Chief Justice