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The Solicitor General

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To The Solicitor General

http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10868985

The Sensible Sentencing Trust has received significant public pressure to act on what has been seen as a grossly inadequate sentence handed down to Darren Murphy Fidow by Judge Phillipa A Cunningham in the Auckland High Court on 18th February and we wish to urgently seek your views on the Crown appealing this decision.

Darren Fidow plead guilty to one charge of Aggravated Robbery carrying a maximum sentence of imprisonment of 14years. Instead Judge Phillipa Cunningham in what can only be described as 'unbelievable' sentenced him to 9 months home detention and an additional 2 months for a burglary charge.

The fact that Fidow committed the burglary on the same day as the morning sentence indication hearing for the aggravated robbery defies belief!! This offender shows neither remorse nor respect for the NZ Justice system or importantly his victim.

Quite rightly, The Crown originally sought a sentence of more than five years jail. We remain astounded that Judge Cunningham applied a 20% discount for a guilty plea as well as one for remorse. A remorseful person does not breach bail, breach a supervision sentence and hide for over a year requiring the TV Programme Police 10/7 to assist the NZ police in locating him!

Furthermore, we submit that Fidow's use of violence was not at all considered by the Judge. This was a premeditated, violent attack on a vulnerable 82 year old victim. Mrs Sutcliffe's quality of life will never be the same - She can no longer drive herself anywhere thanks to the terrible wrist injury, her hip cannot be operated on given her heart condition so she can no longer enjoy her bowls or 'normal' mobility, she is constantly fearful living alone and can no longer afford new seeing glasses as Fidow stole the \$200 that she had saved especially for that purpose.

It is our further submission that society is rightly outraged by this *offender friendly* nonsense sentence that was handed down by a Judge who is renowned for questionable decisions at best. One only needs to recall the example of Judge Cunningham discharging a “talented New Zealander [who] makes people laugh and laughter’s a good medicine” when he plead guilty to performing an indecent act on a 4 year old child. Respectfully we suggest that she be reminded of the Judicial Oath “do right to all manner of people ... without fear or favour, affection or ill will”.

In her summation the Judge stated to Fidow, “All the best. Keep treading the same path that you have been and I am sure that you will do well”. This comment is not only gravely insensitive to the victim in the case but also the NZ Justice system as a whole. Violent crime, breaching bail, beaching supervision sentences, burglary, and wasting police time – how on earth can anyone, let alone a District Court Judge believe that this ‘path’ is a good one?

Judges have been delegated the task of sentencing by the community and the expectations of the community, let alone the rights of the victims should be taken into account. When this does not happen confidence in the administration of Justice is diminished.

As previously stated there is public interest in this case and in the interest of furthering justice we believe the Court has a responsibility to denounce actions of this type and to deter others by holding offenders such as Fidow accountable. We strongly urge the Crown to urgently appeal this non-custodial and ineffectual sentence.

I look forward to your reply.

Regards,



Ruth Money
Sensible Sentencing Assistant to Garth McVicar