PARTIES:	THE QUEEN v SHAWN GRANT STOKES and TREVOR PATRICK TOMLINS
TITLE OF COURT:	COURT OF CRIMINAL APPEAL OF THE NORTHERN TERRITORY
JURISDICTION:	APPEAL from SUPREME COURT exercising Territory Jurisdiction
FILE NO:	CA8 of 1996
DELIVERED:	4 April 1997
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JUDGMENT OF:	Martin CJ, Kearney and Angel JJ

CATCHWORDS:

Appeal – Criminal – Sentence manifestly inadequate – Offence – Armed robbery – Youths placed on home detention orders and community service – Deterrence a strong factor – Appeal allowed – Sentence of imprisonment substituted

Criminal Law (Conditional Release of Offenders) Act, ss19A, 21

Baldwin (1988) 38 A Crim R 465, applied
Everett (1994) 181 CLR 295, applied
Fermaner (1994) 61 SASR 447, applied
Hollingsworth (1993) 14 Cr App R(s) 96, applied
Serra (unreported, Court of Criminal Appeal delivered 24 February 1997), considered
Edwards & Horton [1996] 2 Cr App R(s) 115, referred to
Potter (1994) 72 A Crim R 108, referred to
Sunderland & Collier [1996] 2 Cr App R(s) 243, referred to

REPRESENTATION:

Counsel:

Appellant:	R Wild QC
Respondent:	T S Corish

Solicitors:

Appellant:	DPP
Respondent:	NAALAS

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MAR97012

IN THE COURT OF CRIMINAL APPEAL
OF THE NORTHERN TERRITORY
OF AUSTRALIA
AT DARWIN

No. CA8 of 1996

BETWEEN:

THE QUEEN
Appellant

AND:

SHAWN GRANT STOKES

and

TREVOR PATRICK TOMLINS
Respondents

CORAM: Martin CJ, Kearney and Angel JJ.

REASONS FOR JUDGMENT

(Delivered 4 April 1997)

MARTIN CJ.

The facts giving rise to these appeals, brought by the Director of Public Prosecutions, appear from the reasons of Kearney and Angel JJ. Had it fallen to me to sentence the respondent at first instance, I have no doubt, with respect to the learned sentencing Judge, that they would have been ordered to

serve terms of actual imprisonment. The nature of the offence called for it; the two men armed with knives invaded a service station at night, made threats and demands on the sole attendant, and stole cash as a consequence. The *Sentencing Act* not being in operation at the time of sentencing, the discretion in relation to the fixing of a non-parole period was more flexible than now. After taking into account remissions on sentence which were available to prisoners, by executive act, the period prior to which a prisoner was not entitled to be released upon parole was normally set by the Court at one half of the head sentence, or less. Taking into account the considerations applicable to fixing that period in a case such as this, I consider that it would have been somewhat less than half the head sentence, bearing in mind particularly the age of the offenders at the time of offending (17 years and 7 months, and 18 years and 6 months) and their prospects of rehabilitation (*Bugmy v R* (1990) 169 CLR 525). The youth of an offender is not discarded in the sentencing process, even involving very serious offences such as this, although deterrence remains of primary importance. The often quoted observation of Hunt CJ at CL at p469 in *Gordon* (1994) 71 A Crim R 459, does not mean, as sometimes might be thought, that the youthful age of an offender never counts as a mitigating factor in robbery cases. As his Honour there said: “Far from it”.

However, the outcome of this appeal is not dependent upon what I may have done as opposed to what her Honour did, but whether there was error. In that regard the Director advanced argument to show that the sentences imposed on these respondents were manifestly inadequate. The effect of each of the

sentences imposed, after suspending the order for imprisonment for three years, was that each respondent was subject to:

- supervision in the community for three years;
- the directions of the Director of Correctional Services in all important aspects of his life;
- further alcohol and drug counselling
- home detention for six months (which is no minor form of punishment); and
- 240 hours of community service.

They completed the period of home detention and community service prior to the appeals coming on for hearing. They have, in the meantime, continued to be subject to their undertaking to be of good behaviour and the supervision of the Director.

I agree that, notwithstanding the significant punishment imposed, much of which is yet to be completed, the sentences were manifestly inadequate. That does not require this Court to intervene. This being a Crown appeal, it puts in jeopardy "the vested interest that a man has to the freedom which is his, subject to the sentence of the primary Tribunal" per Isaacs J. in *Whittaker*

(1928) 41 CLR 230 at 248 referred to in one of the leading cases in matters such as this: *Tait* (1979) 46 FLR 386. A most detailed analysis of the cases relating to Crown appeals against sentence is to be found in the judgment of Underwood J. in *Dowie* (1989) 42 A Crim R commencing at p234. His Honour there sets out the position as it appeared in various jurisdictions throughout Australia. Amongst the many cases reference is made to *Ireland* (1987) 29 A Crim R 353, in which the general approach adopted elsewhere was applied in this Court.

One of the factors to be taken into account as part of the double jeopardy principle, is delay from the time of sentence to the time of disposition of the appeal. These offences were committed on 23 August 1995, and the respondents entered their pleas on 12 April 1996 when pre-sentence reports were ordered. There were delays in obtaining these reports which meant that the sentences in question were not imposed until 26 June 1996. The notices of appeal were lodged promptly, 8 July, and the matter came on for hearing before the Court on 5 November, by which time both respondents had successfully completed their terms of home detention and performed the community service required. Other exigencies have meant that this decision has not been able to be made earlier. Given that this is a Crown appeal and that the issue of double jeopardy will always be present, particularly where the respondents are undergoing the punishment imposed, I suggest that the Director seek to have such appeals listed for hearing as quickly as is possible. In this case, there were sittings of the Court in its appellate jurisdiction commencing on 22 July, and again on 30 September. Had it not been possible

to have the appeal listed during those ordinary sittings, representations could have been made with a view to endeavouring to having them specially listed.

Carruthers J., speaking for the Court of Criminal Appeal of New South Wales gave effect to what he obviously regarded as being a delay bringing about unfair prejudice in *Potter* (1994) 72 A Crim R 108 at p115, as did the same Court in *Jerrard* (1991) 56 A Crim R 297; per Finlay J. at 303. That Court pointed out in *Pham & Ly* (1991) 55 A Crim R 128 that when considering whether delay should be regarded as a ground for refusing to interfere and correct an inadequate sentence, the serious nature of the crime is a factor to be weighed, per Lee CJ. at CL at p137 and Gleeson CJ. at p138.

A further matter which may be taken into account in assessing the weight to be given to double jeopardy prejudice is whether the punishment imposed in the original sentence has been wholly or partly undertaken. In *Heinrich* (1992) 61 A Crim R the Court bore in mind that the respondent had paid a good deal of a fine imposed, carried out the terms which were imposed upon him in regard to his driving of a motor vehicle, and suffered the frustration of losing the benefit of the leniency, "the extreme leniency shown by the sentencing Judge", in fixing a lesser custodial sentence than should have been imposed at first instance (see the remarks of Lee AJ at p218). In *Potter,* the respondent had been sentenced to two years and six months to be served by way of periodic detention and was also placed on a two year recognizance. He had been sentenced in June 1993, and the matter was disposed of on appeal in April 1994. The delay and the punishment undertaken by the respondent in the

meantime led the Court not to impose a full time custodial sentence. Similarly, in *Hallacoglu* (1992) 63 A Crim R 287 per Hunt CJ. at CL at 299, where it was again pointed out that the seriousness of the crime may be such as to outweigh this facet of prejudice. The general principle of double jeopardy to punishment was recognised as applying in Queensland, but so that it would not defeat an appeal by the Crown where there was serious error; it may have some moderating affect upon the sentence which is imposed in substitution: *Howe v Smith* (1993) 67 A Crim R 1. In that case it was suggested in respect of *Howe* that because he had paid the fine and performed community service as originally imposed, any increase in his sentence would constitute double jeopardy. It was also suggested that it would be cruel to send him to prison. The Court determined to deal with the completion of the community service ordered by a recommendation for early parole. A number of earlier cases are discussed by Mr Rinaldi in his article "Dismissal of Crown Appeals Despite Inadequacy of Sentence", published in 1983 7 Crim LJ commencing at p306.

Like Hoare J. in *Williams, Townsend v Tooma* (unreported, 19 May 1971 Court of Criminal Appeal, Brisbane) referred to in the article at p309, I find myself in a "serious dilemma". The two respondents here ought to have been sentenced to actual terms of imprisonment, but they have undergone the punishment imposed, which was not insignificant, and many months have elapsed since they were sentenced. It seems to me also that to now imprison these respondents is likely to have a seriously adverse effect on them well

beyond that which may possibly have transpired had they been sent to gaol originally.

For the reasons I have given, and in the exercise of the residual discretion, I would dismiss the appeals.

KEARNEY and ANGEL JJ.

This is a Crown appeal against sentence. On 12 April 1996 the two respondents Stokes and Tomlins pleaded guilty to a charge that on 28 August 1995 they committed aggravated armed robbery of the Ampol Service Station at Karama. The learned sentencing judge convicted the respondents and ordered pre-sentence reports, and on 26 June 1996, after hearing submissions and considering the reports and other evidence, sentenced each respondent to three years imprisonment and directed that each sentence be suspended forthwith upon each respondent entering into a good behaviour bond for a period of three years subject to certain conditions:

The conditions relating to the respondent Stokes were as follows:-

(1) that he accept the supervision of the Director of Correctional Services.

(2) that during the period of the recognisance he obey all reasonable directions of the Director or his delegate as to his place of residence, his employment or attendance at an appropriate training programme, as to with whom he associates, as to his reporting to the Director or his delegate and as to his receiving counselling in respect of his drug and alcohol abuse.

(3) that for the first six months of the recognisance he submit to a home detention order pursuant to S19A of the *Criminal Law (Conditional Release of Offenders) Act*.

(4) that he undertake and perform 240 hours of unpaid community service upon the same conditions as if a community service order had been made pursuant to s21(1) of the *Criminal Law (Conditional Release of Offenders) Act*.

The respondent Tomlins' sentence was fully suspended and subject to entering a bond with similar conditions.

The admitted Crown facts relating to the offence, which were adopted by the learned judge, were as follows:

> "In the early hours of Wednesday 23 August 1995, Shawn Grant Stokes and Trevor Patrick Tomlins were consuming alcohol at 5 Mistletoe Crescent, Karama. During that evening they decided to rob the Ampol Service Station at Karama.
>
> The accused, Tomlins, then rode his pushbike to his home at 19 Kalymnos Drive, Karama where he collected a balaclava and a large hunting knife. The accused, Stokes, also gained possession of a knife and a balaclava. They rode their push bikes to the rear of the Ampol Service Station at Karama and waited for a short time, keeping an eye out for customers. They put on their balaclavas, armed themselves with knifes and ran into the Service Station. Rachel Ann Johns arrived for work at the Service Station at approximately 5.30am on the morning of Wednesday, 23 August 1995. She attended to opening the Service Station and serving customers. She also placed money in the till as a float. She then states

she was reading a paper when she heard the front door open. She saw two males wearing balaclavas enter through the front door. The first person through the door ran towards her armed with a knife and the other person stood just inside the front door of the Service Station. She gave police a description of what both these persons were wearing.

She stated that the first person came into the console area and as he approached her he yelled out **"**Give me your fuckin' money". He entered the console area and said further "All I want is your fuckin' money"**.** By this time he was well within reach of Ms Johns and from what she can recall he had the knife in his left hand. She stood away from the register but leaned forward to open it. She was then immediately shoved back into the corner by this person pushing her in the middle of the chest with one hand.

He kept the knife in his hand as he was pulling the money out of the till. He said further **"**Is this all the fucking money bitch" to which she replied "Yes, just take it". She observed him lift the till drawer up to see if there was any money underneath and turned to his friend and say "There's nothing under there mate". He dropped the till drawer back into the tray, turned around and looked at her and said "You don't know anything, if you do anything I'll fucking' come back and kill you". He turned and ran out of the console area with some of the money dropping on the floor.

When the two persons left the premises, Ms Johns telephoned her partner who advised her to telephone the police.

It would appear that after the robbery both Stokes and Tomlins approached a friend of theirs and asked him if they could leave a black bag at his premises. This occurred approximately one day later. This person, being inquisitive, opened the black bag and observed clothing, including two balaclavas and knives. The friend became concerned about Stokes and Tomlins and after discussing it with another person decided to get rid of the bag. To this end they drove to East Arm, past the Trade

> Development Centre, and disposed of the bag and knives and burnt the clothes.
>
> On 15 September 1995 Shawn Stokes was arrested by police and participated in a record of interview in which he made full admissions. On Wednesday 20 September 1995 Trevor Tomlins appeared at the Berrimah Police Centre accompanied by a field officer from the Northern Australian Aboriginal Legal Aid Service. He also participated in a record of interview and made full admissions.
>
> The victim did not sustain any physical injuries but has suffered distress and as a result has resigned from her employment at the Karama Service Station."

At the time of the offence Stokes was eighteen years of age and Tomlins seventeen years of age. Stokes had one prior conviction for aggravated assault and Tomlins had prior convictions in the Juvenile Court for stealing, unlawful entry and assault. Both were assessed in the pre-sentence reports placed before the learned sentencing judge to be suitable for home detention and to undertake community service work. Each respondent came from supportive families. Each co-operated with the authorities after apprehension. Each was remorseful. Each had a drug and alcohol abuse problem at the time of offending. Each has since received counselling in that regard and each was assessed by the learned sentencing judge to have had good prospects of rehabilitation at the time of sentencing. Since the passing of sentence and while the Crown appeal has been pending, each respondent has satisfactorily undergone the stipulated period of home detention and each has done the required community service. In the case of Stokes, he completed 240 hours of community service by 14 August 1996 and in the case of Tomlins, he completed 240 hours of community service by 4 September 1996.

Before the learned sentencing judge, counsel for the Crown submitted that an actual custodial sentence was called for. The Crown submitted, although the range of sentences for armed robbery have varied from fully suspended to heavy actual terms of imprisonment, bearing in mind the respondents' prior convictions for assault, there were no such exceptional circumstances as would justify the respondents' immediate release. Counsel for the Crown stressed the circumstances that each was armed, that twenty four hour service stations were vulnerable and required protection and the incident had caused a great degree of stress to the service station attendant.

On the appeal it was submitted that the sentences were manifestly inadequate ie that they were clearly and obviously, not just arguably, inadequate. It was submitted that it is only in exceptional circumstances that conditional release is appropriate for armed robbery: see, among other cases, *Fermaner* (1994) 61 SASR 447 at 450, and that no such exceptional circumstances existed here. It was submitted that the learned sentencing judge under valued the nature and circumstances and gravity of this particular offence with the result that the sentencing discretion miscarried. There was, it was said, no reasonable proportion between the sentence and the gravity of the crime committed. It was submitted that general deterrence and retribution were the dominant sentencing factors relevant to armed robbery and that whilst rehabilitation is not altogether irrelevant as a sentencing factor, it is of less significance, and that the rehabilitation prospects of an offender must be very

compelling indeed before deterrence is displaced as the dominant purpose for imposing sentence. See eg *Baldwin* (1988) 38 A Crim R 465 at 467.

In the course of her sentencing remarks the learned sentencing judge said:

> "The victim was vulnerable, being the sole employee of the service station in the early hours of the morning. The victim became distressed to the extent that she subsequently left this employment. For her it was no doubt a terrifying experience. There was a degree of planning associated with the offence and both accused took steps to try and avoid detection.
>
> .....
>
> I repeat that the effect of drugs and alcohol is no excuse whatever for the commission of such a serious offence.
>
> Whilst I have referred to a number of mitigating factors in respect of each of the accused, I am mindful of the fact that this is a very serious offence and one in which the penalty must reflect an aspect of personal and general deterrence. On balance, I consider the appropriate penalty in respect of each of the accused is a period of home detention. Home detention brings considerable limitations to their freedom; it needs a considerable commitment, not only from the offenders but from their families.
>
> Both young men are fortunate to have members of their families willing to offer the support and commitment required of them to enable their homes to be used for the purpose of home detention of the respective accused. Both accused will be closely supervised and monitored whilst on home detention. The taking of any drugs or alcohol could result in a breach of the home detention order, with a gaol sentence as a consequence. It is a very real deprivation of liberty, but also allows the two accused to participate in

> community service work and make a real contribution to the community.".

The learned sentencing judge was obviously mindful of the need for personal and general deterrence when imposing the sentence she did. She was also plainly mindful of the youth of the respondents and their supportive family background and good prospects for rehabilitation.

In this case we are of the opinion that a sentence of immediate imprisonment was warranted by the objective facts. Neither of the two offenders were first offenders. Nor were there any such exceptional mitigating factors as might justify a non-custodial sentence. A non-custodial sentence was well off the scale. We are of the opinion the non-custodial sentence and the three year head sentence were so manifestly inadequate that they did not fall with the limits of the proper exercise of the sentencing discretion and that therefore they involved that error in principle which is required of a Crown appeal; *Everett* (1994) 181 CLR 295 at 300.

In *Serra* (unreported, Court of Criminal Appeal, delivered 24 February 1997) the Court said, inter alia at 9 ff:

> "Angel J said in *Spicer, Tartaglia and Fotiades* (supra) at 4 and 9:
>
> 4. 'Armed robbery is a major crime for which the maximum penalty is life imprisonment and *time and again courts have emphasised that severe punishment is required for those who commit armed robbery* and that it is a crime where there is less room for subjective factors to be considered in mitigation because *the principal sentencing considerations are*

retribution and personal and general deterrence, see eg *Williscroft* [1975] VR 292, *Spiero* (1970) 22 SASR 543, *Zakaria* (1984) 12 A Crim R 386.' (emphasis added)

9. 'As far as the offence itself is concerned, it is a very serious offence; it is an offence that carries life imprisonment as a maximum penalty....".

At 16-18 his Honour said:

"It is well settled that *young persons who commit serious armed robberies, despite their youth are, in the absence of exceptional circumstances, to be severely punished*, see eg *Pham and Ly* (1991) 55 A Cr R 128 at 135. *There are no exceptional subjective factors here which justify retribution and deterrence taking a secondary or equal role in sentencing* the respondents Tartaglia, Spicer and Fotiades for these crimes. *That is not to say subjective factors are altogether irrelevant*. As Hunt CJ at CL (Allen and Loveday JJ agreeing) said in *Vu* (CCA(NSW), 11 November 1993, unreported) at 4, citing *Pham* (supra), with approval:

> 'If young people of twenty years of age want to commit crimes of this serious nature, and to act in an adult way in doing so, then they will be punished as adults with much less weight being given than would usually be given to their youth'.

See also *Hawkins* (1993) 67 A Crim R 64 at 66.

.....

18. ... lone knifepoint robberies from tills during daylight hours have [in the Territory] attracted sentences up to six years imprisonment.".

The Court further said at 29-30:

> "Submissions along these lines (mitigatory circumstances and prospects of rehabilitation) take no account of the predominant basis of sentencing in armed robbery cases, as stated, for example, by Angel J in *R v Spicer, Tartaglia and Fotiades* (supra) at p10. The learned sentencing judge rightly treated (p17) the applicant's age as of "little significance". In *R v Rogers* (supra), a case of the attempted armed robbery of a bank, this Court cited the observation at p10 above by Angel J in *R v Spicer, Tartaglia and Fotiades*, and earlier similar observations in *R v Williscroft* (1975) VR 292 at 299, *R v O'Brien and Potts* (unreported, Supreme Court (Vic), 28 February 1986), *R v McNally* (unreported, Court of Criminal Appeal (Vic), 8 December 1988) and *R v Brett* (1987) 140 LSJS 343 (SA) at 344, all stressing the seriousness of the crime of armed robbery and the need for its deterrence by way of condign punishment. To similar effect are observations in *R v Spiero* (1979) 22 SASR 543 at 548-9, *R v Knight* (1981) 26 SASR 573 at 574-5, *Zakaria v The Queen* (1984) 12 A Crim R 386 at 388 (Vic), *R v Chan* (unreported, Court of Criminal Appeal (Vic), 5 May 1989) and *R v Thomson* (unreported, Court of Criminal Appeal (SA), 21 May 1991) at 3. In general, rehabilitation is the main aim in sentencing a young offender such as the applicant; see *GDP* (1991) 53 A Crim R 112 at 116 (NSW). However, sentencing in cases of armed robbery, as in other crimes of considerable gravity, constitutes an exception. This is because it is such a serious crime that even where the offender is young the Court would cease to function as protector of the community unless deterrence and retribution were significant sentencing considerations; see *R v Gordon* (1994) 71 A Crim R 459 at 469 (NSW). Accordingly, in weighing the need for condign punishment of armed robbers against the need to rehabilitate a young offender, the former need will usually prevail. In *Pham v Ly* (1991) 55 A Crim R 128 (NSW), an aggravated robbery case, Lee CJ at CL put it this way at 135:

> ‘It is true that courts must refrain from sending young persons to prison, unless that course is necessary, but the gravity of the crime and the fact that it is a crime of violence frequently committed by persons even in their teens must be kept steadfastly in mind otherwise the protective aspect of the criminal court’s function will cease to operate. In short, deterrence and retribution do not cease to be significant merely because persons in their late teens are the persons committing grave crimes …’.

See also *R v Readman* (1990) 47 A Crim R 181 (NSW). The need for deterrence is even greater when the crime is planned; *R v Tait* (1979) 46 FLR 386 at 399.”.

The Court also said, at 35-37:

> “Some 2½ years ago it was indicated in this Court that sentences for serious armed robbery would increase. Individual sentencing Judges have also indicated that this should be expected..... ”.
>
> We respectfully adopt and apply what King CJ said in *R v Brett* (supra) at 344:
>
> > ‘It has been said over and over again in this Court that armed robbery is a crime which must be viewed with the utmost seriousness. It puts the victims in fear and sometimes, although not in the present case, in danger. The fear is not confined to the immediate victims of the particular crime. The prevalence of armed robbery in the community puts in fear and causes continuing anxiety to a considerable section of the community whose employment requires them to be in charge of money and other property …’.
>
> Small enterprises such as suburban video rental shops provide a useful service to the public. To meet public needs they stay open late at night; they lack the sophisticated protection of institutions such as banks,

> and they are often staffed by one vulnerable person. They are therefore particularly susceptible to attack, constituting easy targets for those who seek to enrich themselves at others' expense. The courts must provide such protection as they can for them; this is done by making it clear that when persons who commit offences such as this are detected they will inevitably face a severe sentence which contains an element designed to persuade like-minded persons that this crime is not worth it. See *R v Donaldson* [1968] 1 NSWR 642.".

Lest it be thought this Court's approach to armed robbery at night of lightly manned service stations is the idiosyncratic view of some outpost, we point to and adopt the words of Turner J speaking for the English Court of Appeal in *Hollingsworth* (1993) 14 Cr App R(S) 96 at 97-98:

> "... we must remind ourselves that this type of offence, by which we mean robbery, committed at night at petrol filling stations, is one that is rife and the courts, so far as they can, seek to deter people from committing such offences. The inevitable effect of a deterrent sentence is that individual circumstances of mitigation, although being placed in the balance, inevitably count less where such a sentence has to be passed than in other types of case. It is inevitable that a severe sentence will be passed on those who attack isolated premises which, because of the nature of the business conducted in them, will probably at most be staffed by not more than one person late at night.
>
> In the *Att-Gen's Reference No 9 of 1989 (R v Lacey)* (1990) 12 Cr App R(S) 7, Lord Lane, CJ at page 9 said this: 'But the fact remains that the principles which we endeavoured briefly to outline in the case of *Major* (1989) 11 Cr App R (S) 481 are largely applicable in the present case. Those principles are these. Businesses such as small post offices coupled with sweetie shops - that is exactly what these premises were - are particularly susceptible to attack. They are easy targets for people who wish

> to enrich themselves at other people's expense. That means that in so far as is possible the courts must provide such protection as they can for those who carry out the public service of operating those post offices and sweetie shops, which fulfil a very important public function in the suburbs of our large cities. The only way in which the Court can do that is to make it clear that if people do commit this sort of offence, then, if they are discovered and brought to justice, inevitably a severe sentence containing a deterrent element will be imposed upon them in order so far as possible to persuade other like-minded robbers, greedy persons, that it is not worth the candle.' To the list of post offices and sweetie shops plainly must be added petrol stations in the context we have explained, isolated and at night."

In that case the sentence was five years imprisonment for the robbery. We would have considered a five year head sentence well merited in the instant case. However we must bear in mind that the respondents have carried out the requirements thus far of their release order, namely six months home detention and 240 hours of community service. In this case we consider it right that this Court should intervene rather than leave the sentence undisturbed by the exercise of the residual discretion which is vested in this Court when hearing a Crown appeal, cf *Potter* (1994) 72 A Crim R 108 at 115. Giving due credit with respect to the home detention and community service carried out in compliance with the sentence appealed from we would allow the appeal, set aside the sentence appealed from and substitute a head sentence of four years imprisonment. We would direct that after serving twelve months thereof, the balance of that sentence be suspended upon the respondents entering into a good behaviour bond for the period of the balance of the sentence $2,000-00 own recognisance. It needs hardly to be mentioned that this sentence should

not be treated as any precedent or guideline for the proper level of sentencing in this class of case, cf *Sunderland and Collier* [1996] 2 Cr App R(S) 243 and *Edwards and Horton* [1996] 2 Cr App R(S) at 115.
