

Johnathon Keogh pleads guilty to aggravated burglary and two counts of assault. At about 4.30am on Friday 18 December 2015, fuelled by alcohol and the encouragement of his friends, he decided to confront two young people who he believed had been slashing car tyres in Queenstown, where they all lived. The defendant walked to the house where the young man, aged 16, lived with his girlfriend aged 15. On the way the defendant called at a local shop which was open despite the late hour and purchased a toy revolver. He then went to the house and knocked at the door. The two young occupants were the only ones present and were asleep in the bedroom closest to the door. The defendant then kicked the door so hard that it cracked. Frightened, the girl called her grandfather. About 30 minutes later the defendant walked up to the door with his t-shirt pulled up to cover his face and a black jumper pulled over the back of his head to cover his hair. He pushed the door open, stepped inside and accused them of slashing tyres. He removed the toy revolver from his back pocket and waved it at both of them. He then walked up to the male, grabbed him by the back of the neck and pointed the pistol into his neck. He again accused him of slashing tyres and threatened to slit their throats if they did it again. He is not charged with any offence arising from that comment. The girl shouted at him to leave and he eventually complied and walked off. Although the girl realised after a minute or so that the replica pistol was a toy, the young male believed that he was being threatened with a real gun and was terrified.

These are serious crimes. A violent home invasion in the middle of the night is a particularly serious type of offence. It undermines the feeling of security in the home that most members of the community are entitled to expect. Although the replica gun was a toy and thus not a firearm, it was realistic enough to make the male, and for a short period, the female believe that it was real. There was no chance that either of them would be injured by the gun but the male, in particular, was not to know that. The fear to which they were exposed was heightened by the defendant's use of a disguise. The victim impact statement from the female indicates she still experiences some psychological symptoms. I have no victim impact statement from the male, but this would have been very frightening for him as well, no matter how stoic he may be, and the potential for psychological symptoms is obvious. For those reasons a sentence of imprisonment is the only appropriate sentence. The real question is whether it should be suspended either wholly or in part.

The defendant is aged 20. He comes from a stable and supportive family. He was educated to Grade 11 when he left to take up a casual job in civil construction. That job finished through no fault of his and he has since found other work. He has not been in trouble before. His consumption of alcohol is not mitigating, but it explains why he may have acted in an uncharacteristic and immature way. I have little doubt that he did not fully appreciate the seriousness and potential consequences of what he did. He is remorseful. He was quickly apprehended, admitted most of what he did to the police and has pleaded guilty at a relatively early stage once the proper charge was determined. There was some planning and pre-meditation but it was limited. The rash and ill-considered nature of these crimes is demonstrated by the fact that while he was at the house the defendant was recognised by the girl from his voice, even though he twice denied it when she challenged him by use of his nickname.

For a youthful offender with no prior convictions, actual imprisonment should not be imposed unless the offence is so serious that there is no appropriate alternative punishment.

In this case, the need for deterrence and punishment is outweighed by the potential for his for rehabilitation. The defendant has good prospects. If he is permitted the opportunity to redeem himself and make amends without the potentially damaging and counterproductive effect of prison then the community as a whole will benefit. For those reasons I will wholly suspend the sentence. I would have ordered community service but there are, regrettably, no suitable programs available to him near where he lives and works.

Johnathon Keogh, you are convicted on each count. You will pay the victims of crime compensation levy of \$150 within 28 days. I impose one sentence. You are sentenced to imprisonment for seven months wholly suspended for 18 months. It is a condition of that sentence that you commit no offence punishable by imprisonment during that period. If you breach that condition then then the court must activate that sentence and require you to serve it unless it is unjust.