

at the police and the gun was then presented on several occasions to members of the public who were threatened with being shot.

[2] The sentencing Judge took a single starting point of 17 years and six months' imprisonment.¹ There is no challenge to that figure. He then settled upon a global discount of 25 per cent. This covered the guilty plea, Mr Falakoa's remorse and his mental health state at the time of offending.² The end sentence was therefore 13 years and six months' imprisonment.³ The narrow focus of the appeal is that this discount figure should have been 30 per cent. It is submitted that if Judge Blackie had allocated individual amounts to each of the three components, this higher figure would have been obtained.

Discussion

[3] We begin by identifying the salient features relevant to each of three mitigating factors. The charges stemming from the last incident were laid on 11 August 2014. We are advised that at the case review it was indicated there would be a resolution, but thereafter it took some time to achieve. In part this is because two geographical areas were involved — Tauranga and Manukau — with different Crown solicitors. Some charges were dropped or amended, and pleas entered in June 2014. Due to the indication given at the case review, a trial fixture was never allocated.

[4] Mr Falakoa expressed remorse in his pre-sentence report, and again by separate letter. He describes himself as ashamed and links his actions to his mental state at the time. A psychological report confirms Mr Falakoa to be now, and have been at the time of the offending, suffering from serious depression with a consequent lack of any feelings of self worth. He says he wished to commit suicide but lacked the courage to do so. Accordingly, he hoped his actions would cause the police to shoot him.

¹ *R v Falakoa* [2015] NZDC 20574 at [23].

² At [27].

³ At [28].

[5] Without minimising the seriousness of Mr Falakoa's mental health condition, none of the matters we have set out cause us to consider the 25 per cent discount was inadequate. As for the guilty plea, it needs to be noted that on most of the charges the evidence was overwhelming, and significant benefits have already been achieved through the resolution discussions.⁴ Whilst the first indication of a plea was relatively early, these matters legitimately restrict the amount of credit.

[6] The topics of mental health and remorse are linked. It is plain that Mr Falakoa was in a significantly depressive state, but it does not readily explain much of the conduct. The aggravated robberies, for example, owe little to this, and in that regard we are obliged to observe Mr Falakoa has served lengthy jail terms in the past for that same offence. This had attracted a far from stern six-month uplift. We also accept he regrets the latter gun incident, where police were shot at and several numbers of the public threatened. Some extra credit could be given but it need not be specifically allocated a figure.

[7] Our assessment is that the 30 per cent Mr Falakoa seeks on appeal, far from being mandated by the circumstances, could well be seen as unduly lenient. A total discount of 25 per cent is a common enough response to cases involving both guilty pleas and the other matters of mitigation. There is nothing in Mr Falakoa's situation to suggest a different response was required.

Conclusion

[8] The appeal against sentence is dismissed.

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⁴ *R v Hessel* [2010] NZSC 135, [2011] 1 NZLR 607 at [60] and [62].