



ACTING CHIEF DISTRICT COURT JUDGE FOR NEW ZEALAND
TE KAIWHAKAWĀ MATUA O TE KŌTI-Ā-ROHE
Judge John Walker

18 September 2019

TO COUNSEL IN AUCKLAND, MANUKAU, CHRISTCHURCH

Re Sentencing when Defendants are in custody

The number of people in custody on remand continues to be at a very high level accounting for over one third of all of those in prison. Of that number some 1200 people are awaiting sentence and many have been waiting a long time.

The problem I see is that while these people are waiting in custody mostly they receive no interventions and a very large number are sentenced effectively to time served. The number of such sentences has doubled since 2015. This reflects the increasing length of time people are waiting for sentence while in custody.

I hope that you will agree that lengthy delay to sentencing for those in custody should be avoided.

I have allocated an additional 8 weeks of sentencing time in the Auckland, Manukau and Christchurch Courts dedicated to those in custody awaiting sentence.

In order to use this valuable time effectively the cases need to be ready to proceed on the allocated day.

I know that many things can get in the way of this happening, but I also know that with sufficient notice of problems the barrier to proceeding can often be resolved.

In order to identify such barriers as early as possible I am issuing a direction in respect of these cases which will require defence counsel, and crown counsel where they are involved, to file a memorandum not later than 10 working days before the sentencing date certifying that the case is ready to proceed or specifying what barriers there are to the case proceeding.

The Department of Corrections is keen to support earlier resolution of these cases and will provide resources to attempt to deal with any barriers within their control. For example, if counsel advise in the memorandum that a new address needs to be assessed for an electronically monitored sentence early advice of this may enable a prompt assessment to be made ahead of the sentencing date.

If counsel are waiting for a specialist report the memorandum will draw attention to this fact and steps may be able to be taken to expedite the provision of the report.

If there is good reason for the case not proceeding then an early decision may be made to vacate the sentencing date allowing for another case to be brought forward.

I attach a copy of the direction which will be sent by the respective Registries to counsel engaged in the cases which are being given this priority attention.

The aim of the process is to enable those waiting in custody for sentence to have early resolution of their case.

In usual circumstances I would have preferred to discuss this direction with the profession in advance but the urgency of the situation has not allowed for that.



John Walker

Acting Chief District Court Judge