

**IN THE HIGH COURT OF NEW ZEALAND  
AUCKLAND REGISTRY**

**I TE KŌTI MATUA O AOTEAROA  
TĀMAKI MAKĀURAU ROHE**

**CRI-2024-404-000568  
[2024] NZHC 3641**

**BETWEEN**

**ROBERT LEONARD PICKERING  
Appellant**

**AND**

**THE KING  
Respondent**

Hearing: 2 December 2024

Counsel: KR Borich for Appellant  
LS Seybold for Respondent

Judgment: 2 December 2024

---

**ORAL JUDGMENT OF DOWNS J**

---

Solicitors/Counsel:  
Crown Solicitor, Auckland.  
KR Borich, Auckland.

[1] Robert Pickering pleaded guilty to a charge of burglary. The offending was serious. He and another burgled a gallery in Lorne Street, Auckland. Seventeen works of art were stolen. These were worth approximately \$28,106.

[2] Judge B A Gibson concluded Mr Pickering's co-defendant was the primary offender. In relation to Mr Pickering, the Judge settled upon a term of nine months' home detention with reparation of \$28,106.<sup>1</sup> Mr Pickering appeals that sentence.

[3] This judgment can be brief for two reasons. First, it is not readily arguable the term of home detention is manifestly excessive or otherwise amenable to appeal. On behalf of Mr Pickering, Ms Borich observed a lesser term of home detention could have been imposed. That may be true, but sentencing is an art, not a science. It attracts a measure of discretion.

[4] Second, it transpires Mr Pickering has no means to pay the reparation order. The Judge had no information about Mr Pickering's means when he made the order. I have the benefit of that information. Mr Pickering does not have a job. He is on a benefit. This leaves him \$289.85 per week. That being so, Mr Pickering cannot afford to pay reparation. It would have been open to Mr Pickering to contest this aspect by applying under s 38A of the Sentencing Act 2002. However, there is no reason the reparation order cannot be challenged on appeal.

[5] Given all this, I allow the appeal insofar as reparation is concerned. I quash the reparation order.

[6] For completeness, the owner or owners of the gallery were insured.

.....

**Downs J**

---

<sup>1</sup> *R v Pickering* [2024] NZDC 24215.