

HART, J.A.:

This is an appeal by the Crown from the imposition of a suspended sentence on a 23 year old man who pled guilty to the following offences:

1. That on or about the 24th day of July, 1992 at or near Eastern Passage, in the County of Halifax, Province of Nova Scotia, did break and enter a certain place to wit: the residence of Paul Arsenault situate at 129 Birchill Dr., Eastern Passage, Halifax County, N.S., and did commit therein an indictable offence therein, contrary to Section 348(1)(b) of the **Criminal Code**.
2. That he on or about the 5th day of August, 1992, at 127 Birchill Dr., Eastern Passage, Halifax County, N.S., did steal one compact disc player, one color television, one VCR, assorted jewelry and assorted compact discs, the property of Sheila Billard, of a value exceeding one thousand dollars, contrary to Section 334(a) of the **Criminal Code**.
3. That he on or about the 21st day of September, 1992, at 127 Birchill Dr., Eastern Passage, Halifax County, N.S., did steal one VCR, one camcorder and accessories, the property of Sheila Billard, of a value exceeding one thousand dollars, contrary to Section 334(a) of the **Criminal Code**.

The trial judge said he was giving the respondent one last chance to separate himself from his life of crime.

In our opinion this was not a proper case for the use of a suspended sentence. The respondent had committed three very serious offences including theft from his mother. He tried to give the impression that his life of crime had come to an end after 32 convictions for previous related property offences. He claimed he had been free of crime for 6 months and had found regular employment. He was living with his common law partner and their child and was prepared to make restitution at the rate of \$175.00 per month until more than \$6000.00 had been repaid.

However, the excuse given for his return to crime was the need to support his re-activated cocaine drug habit and to pay for his debts associated with it. This can hardly be evidence of a sincere effort to reform one's criminal behaviour.

We would therefore grant leave to appeal, allow the appeal and vary the sentences to the imposition of imprisonment for a term of 3 years for the first offence, a term of 6 months consecutive for the second offence and a term of 6 months consecutive for the third offence making a total term of 4 years.

J.A.

Concurred in:

Freeman, J.A.

Roscoe, J.A.

