

IN THE HIGH COURT OF THE COOK ISLANDS

HELD AT RAROTONGA

(CRIMINAL DIVISION)

CR NOS. 117/99,123/99,125/99

269/99,271/99,272/99

270/99,122/99,124/99

POLICE

V

BASILIO TUTAI KAOKAO

Mr Elikana for Police

Mr McAnally for Defendant

Date: 30 November 2000

DECISION OF GREIG CJ

Basilio Kaokao, you are now facing sentence on a number of charges of dishonesty. This is a sad case because you are well respected and it seems, quite an important and trusted member of the community. It's sad too because you brought shame on your family and they're going to suffer harm from the sentence that I will be imposing upon you.

You pleaded guilty to two charges of forgery. Those charges were the false and forged withdrawal slips, one for \$36,800 and one for \$3,400. Although you forged those withdrawal slips, no money actually changed hands and no loss resulted. It was your intention however to hide the loss that had occurred so that you would not be found out.

There is another charge of falsifying accounts over a period of years with the effect of procuring a deficiency of \$41,763. That again was to hide the missing money and what you had done about it. You are not charged with stealing that \$41,000, that was

a shortage which was discovered on a count of cash on April 1999. That count of the cash depended in part on figures that were carried forward and which you had recorded in previous accounting. The Court has not been provided with any reconstruction of the accounts so there is no evidence of what in fact was missing overall.

You are also charged with and found guilty of three counts of stealing, the total of that was \$13,900. The jury heard all the evidence over a number of days and rightly convicted you of the dishonest conduct.

I have formed the view that the bank did not have a very good audit system. Over a period of some years there were a number of audit or checks on your account, a number of irregularities were found and suspicions were raised at the Head Office in Rarotonga. But there seems to have been no attempt to make a thorough check from the very beginning to see just what was happening. This may well have permitted you to continue your fraudulent activities. It is of course no excuse for the fraudulent activities that you undertook.

What you did was a serious breach of trust. All the more serious in a small community like this where people place reliance on you as representative of CISB. They trusted you with their banking transaction and even their bank books. None of them as I understand it, have suffered any actual loss. It is the bank that have to meet the losses if any and ensure that the accounts and balances are correct and accurate.

I said at the beginning that this affects your family and your community generally. It is right that I take into account the position that you had in the community and the work that you have done for it. This is your first appearance and I am sure you will not offend like this again. It is important however to impose a sentence which will deter others and which shows to you and to the community what the Court thinks of this sort of criminal activity.

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charge of false accounting you will be sentenced to 2 years imprisonment, on the charge 272/99 the charge of stealing \$10,430 you will be sentenced to 2 years imprisonment. On each of the other stealing charges you will be sentenced to 1 years imprisonment on each. All these sentences are to be served concurrently.

W. J. Quinn CJ

CHIEF JUSTICE