

IN THE HIGH COURT OF THE COOK ISLANDS
HELD AT RAROTONGA
(CRIMINAL DIVISION)

CR 326/02

POLICE

v

ALFRED GEORGE MANU

Mr Elikana for Police

Mr Little for Defendant

Date of decision: 28 November 2002

DECISION OF GREIG CJ

Alfred Manu, you are now for sentence on a charge of indecent assault. You were convicted after a full hearing on the matter. There is no opportunity here for any special mitigation because you pleaded guilty, you did not do so. It is only now really that you are accepting responsibility and apologising for what took place.

You were the gatekeeper or security guard at the 10/4 night club on the night in question. Nearing the time that the night club was to close there were a number of people outside. The victim wanted to go inside to go to the bathroom. You let her in. It appears that she then came out but at some stage while she was in what was described as the cubicle, which is the entranceway in and out of the club, you and she were alone in it. It is very small; no more than the width of an ordinary door and about two metres long. It is not well lit. There is some kind of special lighting. The doors on

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each end of it are self closing and indeed the outer one can be locked and was locked with a tower bolt.

The evidence of the complainant is that you indecently assaulted her as she was leaving, holding the inside door closed, kissing her, fondling her and with your fingers penetrated her private parts. She did not consent to this, was very upset over the next night or so, made a complaint to a friend and in due course a complaint to the police.

You claimed that it was by consent but it is plain that whatever it was, and you do not deny the actual activities that occurred, you were prepared to have a go notwithstanding that evidence was given that you had a partner at the time. You clearly took advantage of your position and opportunity. I am satisfied that it was a frightening experience for the victim and that she has suffered from that. I do not wish to lessen the impact on her or the seriousness of the matter but it seems that it is not likely to have a long lasting effect.

This was in my judgment a serious matter and a matter which I would ultimately feel that a custodial sentence was required. There seem however to be some rather unusual circumstances in that you are it appears alone on this island with principal responsibility for your two young children who have been with you here, under your sole care for some 14 months.

Your partner who seems to have been prepared in the past to take some responsibility or look after the children to some extent apparently is no longer willing to do that. The mother of the children although she has come over here now has not accepted any immediate responsibility to look after the boys. She has not in any event been looking after them for some little time and it might not be best for the children if they were to be taken back to New Zealand in the meantime.

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I have decided therefore not to impose a custodial sentence and you can say you have been saved by your children. I do say however that this was a serious offence and it does require an appropriate punishment as far as one can impose one. There will be an order that you will serve 12 months community service on the terms, that you are to report on such number of occasions in each week as may be specified by the Controller of the Groups, that you will report first on this coming Saturday at 7.00 o'clock in the morning and each period of custody is not to exceed 12 hours. I think it is appropriate that you should undergo probation as well in addition to that for a period of 12 months and that you will undertake any courses, treatment or training or counselling that the Probation Service may propose. I add that you are not to consume or purchase liquor and to live and work where approved by the Probation Service. I make no order for suppression of the name of Mr Manu.



CHIEF JUSTICE