

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

CR 358/2002

POLICE

v

TEKURA I A NANGA
SAMUEL

Mr Elikana for Police

Mr Little for Defendant

Date of Decision: 28 November 2002

DECISION OF GREIG CJ

Tekura Samuela, you are appearing on one charge of theft as a servant. You were employed by the Bank of the Cook Islands and during July 2001 you took money out of three accounts of your family members who were customers at the bank. In the same month you took an overdraft on your own account. The total sum involved was \$11,306.48. What you did was soon discovered, you were sacked from the bank but it seems to have taken almost a year for these proceedings to have been commenced. I am not quite sure why that was.

This is a case where it is said you were under financial stress, but of course that can never excuse taking money from relatives or your employer or anyone else without full authority.

It is said that it was not for your own personal gain, and it may well be that you did not obtain the direct benefit of it but the benefit was for your accommodation and the accommodation of members of your family.

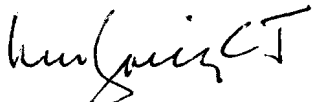
In law and technically the money all belonged to the bank because in the banking system the money that is deposited by your relatives and others becomes the property of the bank. The bank owes the money to your family that is deposited. It is relevant in this case however that the money in the end was substantially your family's money and not any other member of the public.

You seem to have justified that by suggesting that your family ought to have been giving you money or assistance in regard to the family home that you were living in. As far as the money that you took by way of overdraft, you were of course just making or recording a debt on your part to the bank. That was without authority but you were still owing it to the bank and clearly that was going to be discovered and some time you were going to be asked to repay that if nothing else.

Now in this case you have pleaded guilty at an early stage after the matter was brought to Court and you seem to have accepted the responsibility in the matter earlier on. The full amount has been repaid and that is important to me.

You show some particular promise as a teacher trainee and that I think is a matter to be particularly encouraged in your case and for the benefit of the community as a whole. More often than not people who steal from their employer are sent to jail, that is as a warning to all other people that this is not conduct which is just let go. But I have come to the conclusion that in this case because of the rather unusual circumstances it would not be appropriate to send you to prison.

There needs to be a punishment, and I am going to punish you by making an order that you will serve 12 months of community service. You will report on such number of occasions in each week as may be specified by the Controller of the Groups. You will report first on this Saturday at 7.00am and each period of custody is not to exceed 12 hours.


CHIEF JUSTICE