

IN THE HIGH COURT OF THE COOK ISLANDS

HELD AT RAROTONGA

(CRIMINAL DIVISION)

CR 522/2001

POLICE

v

Mr Elikana for Police

Mr McDonnell for Defendant.

Date of sentence: 28 November 2002

DECISION OF GREIG CJ

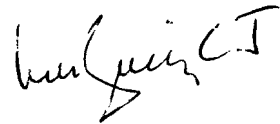
you are now appearing on a charge of indecent assault on a young girl. The girl is your niece and you and she were alone in the house. According to her statement you ordered her into a bedroom, told her to lie on the bed, climbed on top of her and kissed her twice. She managed to get away from you but you tried to prevent her and as she says you touched her "on the front of her bum". She adds that you threw her against the wall.

This is quite a serious charge of indecent assault. It is not the worst of course but there was violence, compulsion, you compelled her to go into the bedroom and stay and there was indecent assault in the shape of kissing as well as touching. You are aged 31 years and have never appeared in the Court before, you have pleaded guilty and you did that at an early stage. You are certainly entitled to credit for that. You present rather a sad case with an unpleasant family background, but there are many people like that who do not commit this kind of offence. You have support from your employer and Mr McDonnell has said everything that he can. In all the circumstances however, I think that a term of imprisonment is necessary and appropriate in

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this case.

You will be sentenced to 6 months imprisonment to be followed by probation for one year on the normal terms but in addition that you will undertake such course or courses of treatment or counselling as the Probation Office may require. I will add to the terms of Probation that you abstain from alcohol. Finally, there needs to be a suppression of the name of the victim. Because of the relationship there will have to be a suppression of the prisoner's name as well.



CHIEF JUSTICE