

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

CR 89/06

POLICE

V

ANZAC TEAEA
Defendant

Sergeant T Howard for Police

Mr Tapaitau for Defendant

Date of Sentence: 31 March 2006

SENTENCE OF NICHOLSON J

Anzac Teaea, you have pleaded guilty to the offence of indecently assaulting a woman on the 4th of October last year.

The facts are that the woman was a visitor to Rarotonga having arrived with her friends a few days earlier. On the Monday evening she had some beers with her friends at the Rarotonga Backpackers before going to the RSA in Nikao. There, they went inside bought some drinks, sat at the table and enjoyed themselves dancing amongst themselves and also with other people and one of them was you. As the night went on the woman felt tired and decided to go home and she walked out of the club. You followed her and asked her if she would like a lift. She didn't mind because since her arrival in Rarotonga she had been picked up and dropped off by local people a number of times and there was never any threat for her safety. As she walked down the street you came up to her in a vehicle, she got inside and you moved off.

You and she chatted, but she became concerned when she noticed that you had driven past the road that led to the Backpackers, asked where you were going and you said that you were just taking her for a ride around the island. You then turned up the road which led to the waterfall telling her that this was a shortcut but then as it developed she realized that she was in trouble but kept her cool. You stopped, you leant over and started kissing her, she pushed you away. You got out and came around her side of the vehicle, started kissing her and put your finger into her vagina. However when she made it very clear to you that that was objected to, you did stop and you then drove her back to where she was staying, apologized to her for what you had done.

When you were seen by the Police you admitted what had happened but gave the explanation which you have repeated to the Probation Officer and which your counsel Mr Tapaitau has emphasized today that you believed that she was a willing party to have sex with you and that you had hoped and intended to have consensual sex with her. That when you realized that she wasn't consenting you immediately stopped and took the matter no further.

In her Victim Impact Statement the victim points out that she lives overseas of course, that she didn't receive substantial injury just some minor scratches but that the incident has shaken her up badly and she has decided not to return to the Cooks. She felt safe when she first arrived but now she has a different view as to her safety and is apprehensive. She cut short her holiday because of what happened. It's obviously been a very upsetting experience for her.

The Probation Officer reports your age of 32 years, your history and the fact that you are married and have a very good relationship with your wife who was shocked to hear what you had done, she was away on a course, but has forgiven you. She describes you as a very good husband and man. It is clear that you are a good person. You are in good employment and your employer speaks

highly of you and it is clear that except for this incident you have been a person of good character who is well thought of by family, friends and people who you work with. You told the Probation Officer that you've learnt from this as a big mistake and realize the shame that had brought to you and your family.

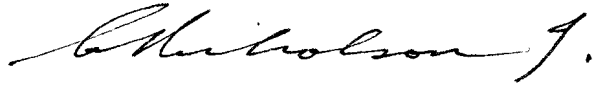
The Probation Officer points out that you have no previous convictions, you are a young man, you are married and a good husband, you have a steady job and hold a high position with your employer and that your wife could not support herself without your continuing support. You have accepted responsibility, you did at the outset, you didn't deny the incident, you were remorseful from the outset and it is very much to your credit when you realized that she was not willing, you stopped, you didn't persist and that is very much to your credit.

I regard the offending as being at the lower end of seriousness for indecent assault. As your lawyer has pointed out there's a range of sentencing for indecent assaults which reflects the seriousness of each particular case and there is no fixed term as it were for indecent assault because the circumstances vary so much as also do the circumstances of the offender.

You have pleaded guilty at an early stage, you have saved the victim therefore the trauma of having to give evidence and you have saved the Court and the country a lengthy trial and costs and you are unlikely to re-offend.

In those circumstances I consider that imprisonment is not the appropriate penalty and that the sentence recommended by the Probation Officer is the appropriate sentence. I accordingly sentence you to 12 months community service order pursuant to S. 8 of the Criminal Justice Amendment Act.

So that is the sentence of the Court, it has been a bad episode for all concerned but I trust that you will put it behind you and resume being the good person that you were and are, supporting your wife and being a good worker.

A handwritten signature in cursive script, appearing to read "A. Whitson J.", written in black ink.

JUDGE