

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

**MISC: 67/11
(CR 505-510/11)**

POLICE

v

COREY WILLIAM NICHOLAS

Hearing: 8 September 2011
Counsel: C Evans for the Police
C Petero for the Defendant
Sentence: 8 September 2011

SENTENCING NOTES OF THE HONORABLE TOM WESTON CJ

[1] Mr Nicholas, you appear before me for sentence on seven charges. Four of these relate to cannabis offending, two relate to receiving and one relates to possession of an unregistered firearm.

[2] Of the four cannabis offences, the most serious are a cultivation charge which carries a maximum term of imprisonment of 20 years, and a possession charge which carries a maximum term of imprisonment of two years, a fine of \$5,000, or both. In addition, you are charged with supply and possession of a utensil. Both of these, in the circumstances of this case, I am satisfied are of a less serious nature than the other two.

[3] The two offences for receiving carry a maximum term of imprisonment of five years. Ms Evans has suggested that for a first offence, a non-custodial sentence would be expected. In relation to the firearms charge, the maximum penalty is a fine of \$100.

[4] For offending on the scale for which you have been charged, imprisonment is a starting point. It is fairly clear to me that from the large amount of seeds discovered in your possession, the chances of there being a bigger cultivation behind that for which you have been charged is highly likely.

[5] While you have given an explanation as to why you have used cannabis, Mr Petero has properly accepted that that cannot be an excuse for breaking the law. You must have known that when you used the cannabis, when you grew the cannabis, you were breaking the law. It is also fairly clear to me that when you purchased the two laptops for \$100, you must have known that they were stolen. The firearms charge is a less significant one, although having possession of an unregistered firearm of itself, is a serious matter.

[6] The difficulty facing me today is whether I sentence you to a term of imprisonment in relation to your offending. Mr Petero has urged upon me a non-custodial sentence and he has pointed to the fact that you have already been a week in prison. In powerful submissions, he said that that had been a disheartening experience for you and one you did not wish to repeat.

[7] When I came onto the bench, I was firmly of a mind to sentence you to a term of imprisonment. The only issue for me when I came here was how much I was going to sentence you to.

[8] I have listened carefully, however, to what both the Crown and Mr Petero have said, and I have decided, by a very narrow margin, not to send you back to prison. If you ever come before this Court again for this sort of offending, you can rest assured that that is where you will go.

[9] For reasons that I cannot fully articulate, I am prepared to give you a chance. I may come to regret that in the future, but at the moment, that seems appropriate on the basis of what Mr Petero has said.

[10] It seems to me that an appropriate sentence to recognise your offending is a very significant term of community service. I believe an appropriate term would be 12 months.

[11] In view of your sentence of community service, I need to consider the question of probation. You are sentenced to a total of 18 months' probation, which means there will be a further period of six months beyond the end of your community service.

[12] In relation to the possession charge, you are sentenced in the same way. However, that sentence is to run concurrently. That means your total community service will be 12 months, with, in effect, a further six months' probation to continue thereafter.

[13] In relation to the stolen laptop valued at \$2,500, I sentence you to a fine of \$500. In relation to the laptop valued at approximately \$1,200, you are sentenced to a fine of \$300. In relation to the supply charge and the utensil charge, you are convicted but discharged. In relation to the firearms charge, you are convicted but discharged, together with an order that the shotgun be forfeited to the Crown. In addition to the penalties, you are also to pay \$30 Court costs.

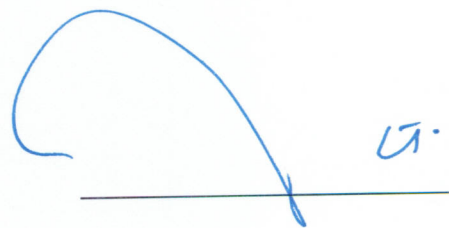
[14] In respect of the sentence of probation, I make the following orders:

- a) You are to report to the probation service within 24 hours of today's sentencing;
- b) You will continue to report on such a basis as determined by the probation officer (this may well be a weekly reporting);
- c) You will attend such workshops or other counselling as directed by the probation officer, and
- d) You will not consume any drugs or alcohol and you will not enter any licensed premises for the entire duration of your probation (18 months).

[15] I direct that the cannabis material and all utensils are to be destroyed.

[16] Mr Nicholas, today you have been very lucky. Do not offend in this way again.

[17] You may stand down.



Tom Weston
Chief Justice