

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

**CR NO'S 64/12 & 66/12**

**POLICE**

v

**JADE FRASER**

Hearing: 22 March 2012  
Counsel: Mr Manavaroa for the Crown  
Mr Little for the Defendant  
Sentence: 22 March 2012

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**SENTENCING NOTES OF THE HONOURABLE TOM WESTON CJ**

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[1] Ms Fraser you are here today for sentencing in relation to two charges to which you have pleaded guilty. The first of these concerns the possession of 671 marijuana seeds and I will deal with that charge first and then the dangerous driving charge second.

[2] On the face of it, the possession of 671 marijuana seeds sounds a substantial breach of the Act. The Police have not been able to confirm the size of the container in which these seeds were contained. Mr Little has submitted that it was a

reasonably small medicine container and I am prepared to proceed today on the basis that is the correct position.

[3] You explained that you found the seeds in a fast food restaurant, put them in your bag and they remained there for several weeks. Various explanations have been given by you, one of which is that you forgot they were there and another that they were just for show. You have said also, however, that you did not actually show them to anyone and I am prepared to give you the benefit of the doubt on this. That is, I assume you did pick them up and put them in your bag and that you then forgot they were there.

[4] Having said that, it was a very stupid thing to have done. There is a problem on the island with marijuana and 671 marijuana seeds in some instances may result in a person going to prison. You were putting yourself at risk of going to prison. In this case certainly, and on the basis of the explanation given by Mr Little, that is not an option that I could be considering here.

[5] The second charge concerns speeding and you were charged with dangerous driving, following the Police observing that you were speeding, and then pursuing you in an unmarked car. I have learned with some concern that the unmarked car did not have flashing lights. You have explained that when you were chased by this unmarked car, you were concerned. Your written statement says that you were encouraged by your pillion passenger to speed and you have also said that you panicked.

[6] I think that is a reasonable explanation for how you responded to the situation. Obviously though, you should not have been speeding in the first place and certainly I have been on the island long enough to know that people of your age on motorbikes are frankly a menace.

[7] Mr Little has urged me to adjourn both of the charges today for a period to see how well you go and then to discharge you on both charges under Section 112 of the Criminal Procedure Act. A similar recommendation has been made by the Probation Service. As background to that submission, Mr Little has referred me to

the Prevention of Juvenile Crime Act and also suggests that there is an option of referring you to the Children's Court, or for me to exercise that jurisdiction.

[8] I have some doubts as to the statutory threshold under that Act and I am not prepared to exercise that jurisdiction. I believe that I will sentence you in the High Court as this matter was originally intended.

[9] There has been an argument before me as to whether there is a compulsory period of disqualification that should be added to any conviction in relation to dangerous driving, and counsel have pointed to Section 31(2) of the Act which says there is a maximum of 3 years but no apparent minimum, a 12 month minimum apparently applies in the case of alcohol offences, and there is no suggestion here of alcohol.

[10] I am very conscious Ms Fraser that you are aged 17 years, you are in your last year at school and the accounts that I have received are that you are doing well there. I think we need to take all of that into account.

[11] When I came onto the bench, I was firmly at the view that you should be sentenced to Community Service in relation to the marijuana offence. It sounded pretty grim. I have listened carefully, however, to what Mr Little says and in relation to that charge, I am going to do what he has suggested which is to, adjourn this matter. I am going to adjourn it for 12 months, and at the end of 12 months if there are no further problems, you will come before the Court and at that stage the Court will discharge you without conviction in relation to the marijuana charge under Section 112 of the Criminal Procedure Act.

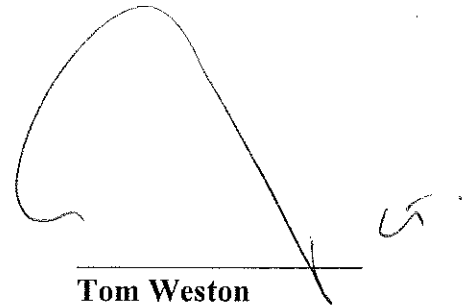
[12] In terms of the dangerous driving charge, I do not think it is appropriate that I deal with it in the same way.

[13] I am conscious that you were speeding prior to being chased by the Police but I am also conscious of the fact that the dangerous driving followed the pursuit of you by an unmarked car without flashing lights.

[14] In the very unusual circumstances of this case, I am going to discharge you without conviction today, in relation to that offence.

[15] I suggest Ms Fraser that you have been dealt with exceptionally leniently. I am hoping that this will be the last time we ever see you here, apart from in 12 months time, so that your discharge can be properly effected.

[16] I hope also that you will not speed on your motorbike ever again and I hope that your future is a better one than probably the last few months have been for you.

A handwritten signature in black ink, consisting of a large, sweeping loop that descends and then curves back up to the right, ending in a small flourish.

**Tom Weston**

Chief Justice