

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

**CR NO'S 263/12, 285-288/12
341- 342/12
& 346/12**

POLICE

v

KORO KI-VANANGA TANGAROA

Hearing: 22 June 2012
Counsel: C King for the Crown
C Petero for the Defendants
Sentence: 22 June 2012

SENTENCING NOTES OF WILLIAMS J

[1] Koro Ki-Vananga Tangaroa, you appear here today for sentence on a number of charges most of which were committed on 22 February 2012, but some of which are subsequent to that date but consequential on it.

[2] The first charge of the five on 22 February 2012 was that you burgled Mona Ioane's house in Tupapa with intent to commit a crime. You went to the house early in the morning, opened the door and entered the house where everyone was sleeping and woke one of your cousins to enquire about another cousin's whereabouts. While

you were there waiting for the return of that cousin you saw a bag in the main room which you opened and rifled \$25 in cash out of it. You probably would have taken more had it been there.

[3] On the same day, you burgled Bob Kimiangatau's house. Again, going to the house early in the morning, entering through a closed but unlocked door whilst everyone was asleep. You were looking for the owner's daughter, a young woman you scarcely knew. When you found her you moved over to her, laid down alongside her, although there was some suggestion you may have laid on her, kissed her and it was only when she realised who you were, when she woke and realised that she told you to leave. You did so but you kept coming back to the house. There was some money taken there but you denied taking that.

[4] Again on the same day, you committed a charge of unlawfully taking a motorcycle. Mr Hunter allowed you to use his bike earlier that morning, you returned it, but then later on you were seen riding the bike. You had only been entitled to use it once and you took it for your own use later on. You said you just took it for a joyride, a fairly common explanation.

[5] On the same day you indecently assaulted a young woman. Again, it was that night, you went on what was then a stolen motorcycle to the complainant's house, went into the house where everyone was sleeping, and you rubbed your hands around her upper chest and breast and down towards the victims' shorts and her vagina. Again, fortunately for her, she awoke, realised you were not her partner and was able to kick and push you off, identifying you at the time.

[6] And fifthly that night, you were found in a building owned by Ngeti Akania. Roughly at the same time, you went into the house and committed the offence.

[7] It would seem that after the committing of those offences on 22 February you were first remanded in custody and then on 15 March 2012, granted bail on a number of conditions including a 7pm/7am curfew. Despite that, at about 9.30 on the 30th March, you were seen riding your motorbike when you should have been at home in

accordance with the bail conditions. You told the Police you had been with your father at a Rugby Club do, but he left and you stayed on.

[8] On the 4th April you had been bailed again, it seemed, that very day, but at about 10 o'clock in the evening you were seen on your bike driving out on the road at Ngatangiia. There was then an altercation between you and the complainant and the threatening to kill charge - he, it seems was the boyfriend of the woman on whom you had conducted the indecent assault - there was, according to Mr Petero, a lot of shouting and swearing but your mother restrained you at that point. However you went back to your house, got a bush-knife and came back and threatened to kill the complainant. Whilst the earlier part of that incident is regrettable, the second part of that incident is criminal.

[9] You pleaded guilty to all charges on 12 April 2012 and remitted on bail on the basis that you went to live with relatives in Aitutaki. And, as I will mention again in a moment, it seems that you have done reasonably well and turned your life around to a degree whilst you were there.

[10] The Probation Service in their usual helpful report gives some background. They make the point that when you first came before the Court charged with common assault back in 2009 you were still a student at school, and you were ordered to come up for sentence in 6 months if called upon.

[11] It seems that Mr Petero has confirmed that you had a strict upbringing, particularly as far as your father was concerned, and it may be, that as a result, you have developed emotional problems and an anger management difficulty.

[12] As I said, you were bailed to Aitutaki and the testimonials from those with whom you have worked while you were there show that you may well have come to realisation that you were wasting your life and resolved to turn it around.

[13] You have had a lot of assistance from the people of Aitutaki, from your Aunt - it would appear that she has helped you with her counselling skills - and your family and your mother who spoke here this morning. But your Aunt says that

whenever she talked to you after these offences came to light, your eyes were red and you seemed to be under the influence of cannabis, you were stoned. After you went to Aitutaki you may have broken what seems to have been an addiction to cannabis while you were there.

[14] The Crown point out, that in terms of sentencing, you need to be held accountable to the community for what you have done, assume some responsibility for what you have done, and your sentence today imposed, needs to denounce what you have done and try and deter others from similar behaviour.

[15] In relation to the first spate of offending, the Crown points out that you committed no fewer than five serious offences within a 12 or 24 hour period, probably within a 12 hour period given that most of them occurred in the early morning. They involved your unlawful entry into several houses when the occupants were asleep, so their rights of occupation and privacy were breached and you have also taken some money from them. It is therefore a matter of public interest that an appropriate sentence is imposed on you.

[16] Ms King refers me to a number of earlier cases of sentencing involving offences such as you face, but two of them, the indecent assault and the threatening to kill are charges, where a Court has no tariff but to impose a sentence which seems appropriate in the case because such a wide variety of situations give rise to those charges. Acknowledging your early pleas and your age, the Crown nonetheless suggests that the Court might consider a term of probation.

[17] Mr Petero, for you, explained the circumstances in which the threatening to kill charge arose and suggested you were goaded into what you did and of course stresses your age and the fact that in Aitutaki you seemed to have modified your behaviour.

[18] As I said, the Court has to try and arrive at a sentence which will denounce what you did over the whole period of your offending and try and deter others. In essence, the balancing exercise I have to take is whether the way in which you have reformed yourself in the last few weeks is enough to set aside the jail term which

would undoubtedly follow for your earlier offending, particularly of the burglaries and the indecent assault. In that earlier period, it would seem that you were a constant user, if not an addict, of cannabis and perhaps as a consequence you exhibited a sense of entitlement - you could go into any house, do what you like to any girl, take any bike, do as you choose - and the events of 22 February 2012 amply demonstrate that. But you have, with help, it seems, done quite a lot to improve your situation since then and since you have been in Aitutaki. You are a relatively young man still. You did plead guilty to the charges. You do have one earlier conviction but not of great seriousness.

[19] So, the real question on sentencing is, whether I should agree with what the Crown suggests and impose a fairly lengthy term of imprisonment on you or, as Mr Petero stresses, acknowledge the improvement you have undertaken in your situation and not imprison you. Your mother obviously presses for the same result.

[20] What I have ultimately decided is that there needs to be a short term of imprisonment. What you did back in February particularly the indecent assault, is just too serious for you to escape a term in jail. But, in acknowledging the efforts you made in recent times from previous situation, I can state that the term of imprisonment I am going to impose is very much shorter than the term the Crown urges me to impose.

[21] You will be sentenced to 1 month imprisonment on being found unlawfully in a building, and 1 month for contempt. All these jail terms are what the lawyers call concurrent, that is to say they run together, so it is not as if they are added one onto the other.

[22] On all the other charges you are sentenced to 6 months imprisonment.

[23] When you are released you will be on probation for 12 months, the first 6 months of which will be on community service. Whether you serve that community service in Aitutaki or wherever, is a matter for the Probation Service to direct you and it is for the Probation Service to impose any other conditions it might think appropriate including possibly drug and alcohol counselling.

[24] So in the end Mr Tangaroa you are going to jail but for a much less term than would have been the case if you had been sentenced back when the first clutch of offences occurred on 22 February.

A handwritten signature in black ink, appearing to read 'Hugh Williams J', written in a cursive style. The signature is positioned above a horizontal line.

Hugh Williams J