

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

**CR NO'S 152-153/12, 815/12
135/13, 159-160/13**

CROWN

v

PUTERE DEAN

Hearing: 10 May 2013

Counsel: Ms C King for the Crown
Mr W Rasmussen for the Defendant

Sentence: 10 May 2013

SENTENCING NOTES OF THE HON. JUSTICE DAME JUDITH POTTER

[FTR 10:39:00]

[1] Putere Dean, you are before the Court for sentence on a number of charges: possession of a utensil, a bong for smoking marijuana, that carries a maximum penalty of 5 years or a fine of up to \$5000 or both; a charge of receiving under Section 281(1)(a) of the Crimes Act. That also carries a maximum penalty of 5 years imprisonment. You are also before the Court for three breaches of Community Service orders on the 6th, 13th and 20th April 2013.

[2] The lead charge is that of receiving, being the most serious of the several charges you face.

[3] The facts relating to that are that you received from a friend a digital camera with a value of about \$1,600 knowing that it was stolen, but instead of handing it

over to the Police which might have been a pretty obvious thing to do, you retained it.

[4] In relation to the drug offence on Wednesday the 10th April 2012, the Police executed a search warrant at your address. They found a plastic drink bottle that had been modified into a bong for smoking cannabis inside your bag. You admitted that the bong was for your personal use.

[5] In respect of the breaches of Community Service, on the 31st August 2012 you were sentenced for burglary to 18 months supervision with the first 12 months on Community Service. In relation to that sentence, you simply failed to appear as you were required to do on the three dates I have mentioned, and you offered no reasonable excuse for that failure.

[6] It is an aggravating factor, Mr Dean, that you are now what is described as a recidivist offender. That is not a description any Judge wants to have to apply to a person they are about to sentence, but you fall into that category.

[7] Your first recorded offending is on the 31st May 2005 and for that offending which involved assault on a female, you were sentenced to 12 months imprisonment followed by 12 months probation. Following that, you have received several terms of imprisonment, the longest being 18 months imprisonment imposed on 15th December 2006 for three burglaries and unlawful taking.

[8] This is your eleventh appearance before this Court for criminal offending. That is a sad history.

[9] Mr Rasmussen in making submissions on your behalf has explained your background. It is an unfortunate background.

[10] I am going to have to send you to jail again, which I can only regard as unfortunate. No Judge wants to send an offender to jail but there is nothing else I can do with you.

[11] What you can do with your life is entirely up to you and you might like to use this spell in prison to quietly reflect on whether you want to spend your life going back to prison as you clearly will if you keep offending, or whether you want to take a different direction.

[12] I am confident that within this community on Rarotonga, there would be support and assistance for you and Mr Rasmussen has referred to that. But if you are going to take advantage of that support and assistance, you have to cooperate. You cannot just continue being difficult, in not respecting the law of this country and the assistance that is genuinely offered by those who would wish to help you.

[13] In mitigation is the fact that you pleaded guilty at the earliest reasonable opportunity to this offending.

[14] I must take into account in relation to the receiving and drug offending, the need for deterrence and protection of the community.

[15] I have received helpful submissions from counsel as to the appropriate sentence, which as I have already said, must be one of imprisonment. There is very little difference between counsel as to where the appropriate term of imprisonment should lie.

[16] With the benefit of those submissions, I impose the following sentences on you:

- a) For the receiving offending, a sentence of 8 months imprisonment.
- b) For the drug offending, a sentence of 2 months imprisonment
- c) For each of the breaches of Community Service orders, a sentence of 4 months imprisonment, which recognises the repetitive nature of that offending.

[17] All those sentences are to be served concurrently. You may stand down.

Potter, J

Judith Potter, J