

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

CR NO. 260/13

POLICE

v

AKATAUIRA JOHN

Hearing: 26 July 2013

Counsel: Ms M Henry for the Crown
Ms M Miria-Tairea for the Defendant

Sentence: 26 July 2013

SENTENCING NOTES OF HUGH WILLIAMS J

[1] Akatauiria John, on 11 July this year you pleaded guilty to one count of having a utensil for smoking cannabis, namely a bong, in your possession on 17 June. It seems you may be fortunate to be facing only one charge given that two other bongs were found on your premises.

[2] This is a serious offence as shown by the fact that Parliament has set a 5 year jail term as the maximum.

[3] Your offending came to light because your wife reported it to the Police. She gave them the plastic bottle and the hose that you had put together for smoking cannabis and your wife can certainly be praised for taking that action and, as I will say in a moment, for the consequences which have flowed from it.

[4] The search warrant that the Police executed on your premises discovered two other bongs and it is said in the Summary of Facts and confirmed by the Probation Service and by Ms Miria-Tairea for you, that at the age of 15 you have been an addict to cannabis for half your life – at the age of 30, having started at the age of 15. You have been married for six and a half years, there are three children, and your wife spoke to the Probation Service about the addiction from which you have suffered smoking cannabis every day and she felt she had no real alternative to bring about a change in your behaviour unless she went to the Police.

[5] You have got a good job. It would appear that this is the first time that you have been before the Court, at least on a drug-related matter.

[6] The Crown accept that your offending was towards the lower end of offences for possession of utensils but that still means in terms of cases such as earlier on that a short term of imprisonment is the usual result, given that there is a 5 year maximum for this offending.

[7] The Crown acknowledges however that you pleaded guilty at the very first opportunity of doing so and agrees with the Probation Service that what might be contemplated in your case is not a jail term but 12 months probation and some community service.

[8] Ms Miria-Tairea makes the point that you spent a week and a half in custody after being arrested for this offence and she produces letters from your wife and your employer asking that leniency being extended to you. You need to understand however that it is well-recognised that personal circumstances play only a small part in sentencing for drug matters. Drugs are so prevalent and exact such a toll on our community that in the ordinary course of events those who get themselves involved in drugs go to jail.

[9] As I said the maximum sentence for this offence is 5 years imprisonment and the term was increased by Parliament not so long ago because of community concerns at the amount of cannabis offending in the Cook Islands community.

[10] But I will put you out of your misery and tell you I am not going to send you to jail.

[11] You have to recognise, and others should recognise, that that is an exceptional result and no one else should take any comfort from my doing so if they are involved in cannabis offending.

[12] The reasons for making an exception in your case is that, despite your addiction to cannabis for half your life, you have, since your offending came to light, taken substantial steps, with your wife's help, to turn your life around. You have not been smoking cannabis in the month or so since this came to light. You have voluntarily gone to counselling. You have voluntarily enrolled in Alcoholics Anonymous and Narcotics Anonymous.

[13] Given the length of your addiction those steps may not in the end be enough to turn you away from cannabis but the Court needs to recognise significant steps taken by people like you to break their addiction and in this case, although it might be taking a bit of a gamble, I think that you are entitled to avoid a jail term because of what you have done to try and reform yourself.

[14] In those circumstances I am prepared to accept the Probation Service recommendation. You are convicted and placed on 12 months supervision including 6 months community service. During that time you are not to involve yourself with illicit drugs and you are to go to any courses that the Probation Office recommends including, of course, Alcoholics and Narcotics Anonymous.

[15] So you can count yourself very fortunate that the Court accepts that the efforts you have made entitle you to considerable leniency, and that is the sentence of the Court.

[16] Stand down.

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