

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

CR NO'S: 596/14 - 599/14

X

POLICE

v

ANAKARINA TEINANGARO

Date: 28 November 2014

Counsel: Ms M Henry for the Police
Mr B Mason for the Defendant

DECISION OF THE HONOURABLE JUSTICE CHRISTINE GRICE

[1] Ms Teinangaro, you appear before me today on four charges; two charges of theft as a servant for which there is a maximum term of imprisonment of five years and two charges of false accounting for which there is a maximum of seven years imprisonment attached. So they are serious charges. They arise out of incidents that happened while you were an employee of the Government.

[2] As a Customs and Tax officer you were required to collect money by way of customs and tax revenue as goods came into the country stationed at the airport. You started stealing in October 2013. You issued false receipts, a simple method where you wrote one receipt for the person paying the money and a false receipt to your employer. Then you took the difference between the money paid to you and what you gave your employer.

[3] The Crown and Defence agreed that there are two incidents; one in December 2014 where you stole \$300 using that method, and one on the 10th of April 2014 where you repeated the method and you took \$100 from Kora Pearls.

[4] The Crown has submitted that these are serious offences, you held a position of trust as a Government Officer and you abused this trust. A high standard of trustworthiness is expected of our enforcers.

[5] The Crown has referred me to a number of cases including *Police v Nicholls*¹ and *Police v Quarter*² for offending of this nature but substantial sums, terms of imprisonment were imposed.

[6] Mr Mason for the defence says he does contest the factual evidence. He says that you were not a sophisticated offender that the amount involved is small. He also points to your personal circumstances which I will refer to in a moment. He fully accepts that you held a position of trust which brings seriousness to the offending.

[7] Turning to the offences. They were deliberate acts. They were pre-meditated in so far as you thought about how to do it and you abused the trust that was put in you by the Government. Against that, the sum involved was \$400, it was not over an extended period and I accept it was not an ultra sophisticated method of fraud. You have also pleaded guilty early.

[8] So far as your personal circumstances are concerned, I have looked at the Probation report and listened to your Counsel. You have two small children at home and you are about six months pregnant expecting another child. You have offered reparation or at least your sister is going to pay that reparation for you. The children need your support.

[9] The Crown as I said referred me to two cases of *Police v Nicholls* and *Police v Quarter* where offending of this nature was looked at. The first case of *Police v Nicholls* was a case in which a substantial amount of money was taken and a period of imprisonment was imposed. The second case of *Police v Quarter* involved the taking of about \$30,000 which

¹ Nicholls v Police (2002) CKCA1

² Quarter v Police 3/11. 9 June 2011 Barker P, Williams, Fisher JJ.

had been partly repaid at the time of sentencing. That attracted a sentence of one year imprisonment with reparation of \$30,000. Subsequently that case was remitted from the Court of Appeal back to the High Court for sentence on the basis that the original sentence did not take into account the fact that Ms Quarter had just given birth 10 days before the sentencing and the child particularly needed its mother. Evidence of that was set out in medical reports produced to the Court of Appeal. In the event, Ms Quarter was subsequently imprisoned for three months together with the time she had already served and reparation ordered.

[10] On the other hand, Mr Mason has referred me to two cases *Police v Karore*³ where the Chief Justice on the 26th September 2014 convicted and discharged the defendant a middle aged woman who appeared for the first time on a charge of theft from Westpac Bank. The repayment of those monies had occurred by the time of sentencing. Mr Mason does not suggest this case is on all fours with the *Police v Karore* case.

[11] In sentencing, I am required to take into account the Community need to denounce these types of offences. I am required to pass a sentence on you that punishes you for the offence but also deters others from similar offending. It must reflect the gravity and seriousness of the offence and hold you accountable for it. It must also take into account any effect on the victim.

[12] At the same time I am entitled to take into account your particular circumstances including your family and background and your children's needs. I must impose the least restrictive sentence that is appropriate in the circumstances and also consider whether there are better options which would contribute to your rehabilitation.

[13] I step back and consider those purposes of sentencing and the principles of sentencing and consider the situation before me. I am satisfied that the purposes of sentencing can be achieved by sentence other than imprisonment, and indeed both the Crown and the Defence have submitted that in this case a term of probation is appropriate despite the nature of the offences and the position of trust in which you were in.

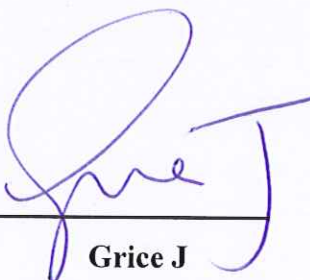
³ 26/9/14, Weston CJ

[14] So taking all those into account, I sentence you on each charge to:

- a) A period of 18 months probation. The first six months on Community Service.
- b) Reparation of \$400 in total.
- c) The sentences to be served concurrently.

[15] The Probation is to be served in Aitutaki.

[16] You may stand down.



Grice J