

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

CR NO: 74-75/2015

POLICE

v

ANGELA PIERCE

Date: 22 May 2015

Counsel: Mr T Manavaroa for the Police
Mr B Mason for the Defendant

SENTENCING NOTES OF JUSTICE DAME JUDITH POTTER

[1] Angela Pierce you are before the Court today having pleaded guilty to two charges. The first is possession of cannabis which is a class (C) controlled drug under the Narcotics and Misuse of Drugs Act 2004. That offence carries a maximum penalty of two years imprisonment or a fine up to \$5000.00 or both.

[2] Secondly, you have pleaded guilty to a charge of possession of utensil, a bong, under the same Act. That offence carries a maximum penalty of five years imprisonment or a fine up to \$5000.00. I treat that as the lead offence in this offending.

[3] The background facts may be briefly stated. The Police exercised a search warrant at your premises in Avana and there located a bong used for smoking cannabis and cannabis material. The material found constituted only 3.08grams of cannabis. You immediately

admitted owning both the bong and the cannabis material and explained that you used cannabis to alleviate pain from which you have suffered for a very long time.

[4] A primary principle in sentencing for drug offending is deterrence. Deterrence, both of you as the offender and general deterrence. The nature of the penalties imposed by the Narcotics and Misuse of Drugs Act 2004 demonstrate how seriously Parliament in this country regards drug offending.

[5] I have been provided with a most helpful Probation report and also your letter which I have read in full. I note from the risk assessment attached to the Probation report that you are assessed as of low risk of re-offending. I am assisted also by constructive submissions from the Police. Those submissions acknowledge that in your particular circumstances and taking into account the mitigating factors, the penalty in this case could appropriately be a significant monetary fine.

[6] Mr Mason in making submissions on your behalf, has described you as victim as much as offender, in what he describes as exceptional circumstances. He notes as mitigating factors that you are 50 years of age and this is your first appearance before the Court. You pleaded guilty to the charges at the earliest opportunity. You have shown genuine remorse. You have suffered great pain through much of your life initiated by a serious motor accident at the age of 20. You have tried, and are continuing to try, to modify your lifestyle by reducing your dependence on drugs and you have turned away from alcohol as creating dependency. You are employed part-time with your partner in his business and you are in a stable relationship. Mr Mason in his written submissions distinguishes you from those who come before the Court drug dealers, who cause the Court considerable concern.

[7] I accept that in your situation, Ms Pierce, the custodial sentence which drug offending will normally attract, is not appropriate. Given the mitigating circumstances and your full acknowledgement of your offending, I accept your assurance that this will be the last time you will come before the Court for such offending. You will of course realise, very clearly, that were you to re-offend there is no doubt you would be imprisoned for that offending. For this offending, treating the possession of a utensil as the lead offence, I fine you \$500.00. You are to pay Court costs of \$30.00.

[8] On the charge of possession of cannabis, you are convicted and discharged.

[9] There will be an order for the destruction of the utensil.

[10] You may stand down.

A handwritten signature in blue ink that reads "Judith Potter, J." with a flourish at the end. Below the signature is a horizontal dotted line.

Judith Potter J