

CROWN

v

SAMUEL MORRIS

Hearing date(s): 07 July 2015

Counsel: Mesdames P Dengate-Thrush & C McCarthy for the Crown
Mr W Rasmussen for the Defendant

SENTENCING NOTES OF THE HONOURABLE COLIN DOHERTY, J

- [1] Samuel Morris the jury found you guilty this morning on two charges relating to possession of a relatively small amount of cannabis and a bong being the utensil for the smoking of cannabis.
- [2] I have called for a copy of the previous Probation report which was prepared for you in relation to sentence on a assault charge in May of last year. I also have a history of your previous convictions. You have, in the last 7 or so years now begun to develop quite a list. A number of them are for contempt of Court which is breaching I take it conditions of bail or some other sentence that's been imposed upon you.
- [3] I've taken the view that I could sentence you today. It's primarily because this offending is at what's known as the lower end of drug offending however, even possession of cannabis or a bong can have a sentence of up to two years imprisonment so the Parliament here recognises this as quite a serious matter. Recently, the Court of Appeal which is a higher Court than this approved sentences even at a low range of imprisonment so that also underlines that Under s.13 of the Criminal Justice Act if I am going to sentence you to community service, I ought to have received a report from the Probation service telling me of your circumstances. Well, your counsel Mr Rasmussen and Crown counsel accept that the report that I have referred to together with an update from counsel is sufficient for the purposes and I think it is for mine. I think that the purpose of the Act is clear, that people should sentence to

Community service or even Probation with as many facts as they can get. I think that I have got those.

- [4] Your circumstances according to you lawyer haven't changed much since May last year except that your family situation has got a bit wonky. I understand that you and your wife don't get on as well as you did and that she has also been recently before the Courts. Mr Rasmussen went so far as to say that your home situation was dire. The two of you work from time to time in your father's business or one of them and bring in \$200 to \$300 per week.
- [5] Mr Rasmussen is obviously not just your lawyer but a friend of your family because he has a genuine personal concern that you are going off the rails and he thinks that this is part of that, that you have now begun to graduate into worse crime and dabbling in drugs is part of that. Something the Court sees only too often. People, young people particularly being a little bored with their lives and experimenting and running off the rails.
- [6] Mr Rasmussen has suggested an effective banishment to your families island of origin. Either Manihiki or Penryhn, I have the ability or this Court has the ability to do that as a condition of Probation.
- [7] I am going to stop short of that because I am not really sure of the appropriate support mechanisms being in place. Mr Rasmussen tells me that there is, having spoken to your family but to do that I would want a further report from the Probation service.
- [8] Mrs McCarthy for the Crown accepts that this is at the lower end of drug offending even though it's serious offending. She has advised me of recent developments where people dabbling in drugs and with drug issues can get some assistance. I think that the purpose of my sentencing you today is to deter you and others, that if you are here for cannabis offending then you will find that the Court will be quite tough. But at the same time I, like Mr Rasmussen and the Crown don't want to see you running further off the rails. I'm not going to lecture you about it, you know what your life is, I'm here to do two things. 1. To represent the community, 2. Have a think about what might help you. Only you can help yourself but I am going to see if I can assist you with that.
- [9] So on each of the charges you are sentenced to a term of community service and that is 4 months of community service. I note that you have served a sentence before and that's to be followed by 6 months Probation, with a special condition that you undertake such drug and alcohol counselling and relationship counselling as directed by and to the satisfaction of your Probation Officer and any programme provider.
- [10] I hope that that sentence will cover both of those objectives, rehabilitation for you and an appropriate response to the community. Good luck.

ADDENDUM

- [1] I have had this matter recalled because the sentence I imposed was an invalid one so this is a supplementary sentencing.
- [2] Mr Morris what I intended to do was to have about 12 months of you being dealt with by the Probation by Community Service and by Probation but because of the law, I need to impose a minimum sentence of 12 months Probation on you.
- [3] So I am going to revoke the earlier sentence and impose 12 months Probation with the special condition relating to rehabilitation and 4 months Community service and that will run alongside.
- [4] It's pretty much the same thing just done differently and the law didn't enable me to do what I was doing so I apologise for bringing you back and you to Mr Rasmussen, I didn't bother the Crown.
- [5] 12 months Probation with a special condition as before, and 4 months Community service with terms to be concurrent.

Thank you.

