

POLICE

v

TEREA MARUAAU

Date: 25 September 2015

Counsel: Mrs C McCarthy for the Police
Mr T Manarangi for Defendant

**SENTENCING NOTES OF THE HONOURABLE CHIEF JUSTICE TOM
WESTON**

[1] Mr Maruaau, you appear for sentence on two charges. This morning Guilty pleas were entered through counsel in relation to the charges of Arson under s.317A of the Crimes Act and also in relation to Receiving under s.281 (1) (a) of the Crimes Act.

[2] In addition to that there are some three Contempt charges and a further charge of Escaping from custody. You have not pleaded in relation to those. For the record you are discharged without conviction in relation to them.

[3] So that just leaves the two offences for which a guilty plea has been entered. This matter has been brought before me on a number of occasions during this sitting of the Court. When I first was seized of the file, it seemed to me inevitable that you would be sentenced to a substantial term of imprisonment. That was so, even despite your young age. Indeed, throughout this process, Madam Solicitor on behalf of the Crown has sought and urged upon me a significant custodial sentence.

[4] Madam Solicitor spoke with the complainant and on 21 September reported to the Court her understanding of the complainant's position. The loss of this valuable family house together with the loss of her father's possessions was obviously a terrible and upsetting tragedy. She spoke of her anger. she spoke how your thoughtless and careless actions had devastated her life and those of her husband. She spoke of pressures that had been imposed upon their retirement and upon their relationship. The extent of the harm caused by you is simply enormous. In the usual circumstances of these cases, you would be put in prison for a long time. What has been different and difficult about this case is the fact of your youth and the fact that Mr George Maggie, Member of Parliament, and well known resident of Tupapa, has volunteered to come to your aid. He has now sworn an affidavit saying that if I were to make appropriate orders then you would go and live with him and he would be your mentor for at least the next year. Mr Maggie speaks of his past experience with helping young offenders in this way.

[5] While it is not a formal part of the Criminal Justice system in this country, the Cook Islands can only be grateful to Mr Maggie for the work that he has done in the past and for the work that he needs to do in the future.

[6] It is certainly my experience that young male offenders frequently offend through stupidity, or ignorance, or because they simply don't think. They need to have some discipline put into their life, they need to have some love introduced into their life, and they need to have someone who cares for them and looks after them.

[7] I am satisfied that Mr Maggie is prepared to offer all of that and more. I suspect you may find some of a life with Mr Maggie to be challenging. But it will only be for your ultimate benefit. If I am to make the orders that Mr Manarangi urges upon me, then you need to understand that this is your last chance. If you do not comply with these orders, if you do not do what Mr Maggie says, you will be back in Court and then very quickly after that, you will be in prison. There is absolutely no doubt about it.

[8] This is your final chance to do something good. Mr Manarangi, in conjunction with Madam Solicitor, has designed the form of an order under s.113 of the Criminal Procedure Act, if I were minded to design a sentencing regime that deferred your formal sentencing until you have spent a year with Mr Maggie. In many ways this is unorthodox and Madam

Solicitor throughout has continued to urge a custodial sentence. She says that is the only way that the State can properly measure and respond to your conduct. She accepts that you are young but that says that nonetheless imprisonment should be visited upon you.

[9] I have been persuaded however that you need to be given the opportunity that Mr Manarangi has designed for you. He has explained to me that, in addition to what is set out in this Order, he is going to assist you to deal with your future. He will endeavour to ensure that you meet with the complainant and that you have an opportunity to apologise to her and to work through these issues in an appropriate way. That to, assists me in making the decision that I now do.

[10] Accordingly, I intent to make orders as is set out in the draft in front of me. This draft acknowledges that you have now pleaded guilty to the two charges through counsel and then I make the Orders that are set out in more detail in this.

[11] Let me repeat that this is your last chance. Let me repeat, too, my grateful thanks to Mr Maggie for what he is embarking upon and let me thank also Mr Manarangi for the efforts that he has taken on your behalf. You are in a perpetual debt to these people for what they are prepared to do for you. You had better not let them down.

[12] You will now stand down.

A handwritten signature in blue ink, consisting of a large, stylized initial 'W' followed by a smaller signature.

Weston CJ