

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

CR NO's 243-247/15

POLICE

v

PITA TURANGASAU SURAKI

Date: 13 September 2016

Counsel: Ms A Mills for the Police
Mr W Rasmussen for the Defendant

DECISION OF THE HONOURABLE CHIEF JUSTICE THOMAS WESTON

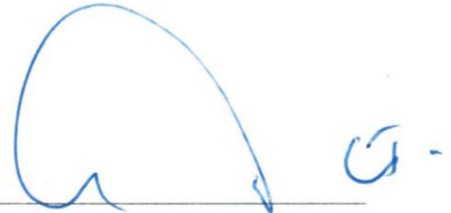
[10:33:27]

- [1] Mr Suraki, you are here today for sentence having pleaded guilty to five charges against you which all arise out of the same incident on 14 May 2015. Two of the charges are serious in that they arise under s 75 of the Police Act 2012 carrying a 2 year term of imprisonment, a \$15,000 fine or both. I treat these as the two lead offences.
- [2] The other three offences include resisting arrest, obscene language and failing to give particulars.
- [3] However, as I have said, all five of these charges essentially arise out of the one series of events. You had been drinking in the Rehab Bar, you came out, and then one thing led to another. Ultimately you were arrested and taken to the Police station.
- [4] The Police summary of facts is before me and I have read it. By agreement between the Police and defence, some amendments have been made to it to reflect the fact that the Police accept that the events escalated perhaps out of proportion to what initially set them in train.

- [5] The Police submissions helpfully refer to all the usual authorities and the significance of the new provision s 75 of the Police Act 2012 was drawn to my attention that the tariff under this section has been substantially increased from previous provisions of which might otherwise have applied.
- [6] Following a helpful analysis of this case, Ms Mills submitted that a short custodial sentence might be appropriate or, in the alternative, if there was to be a non-custodial sentence, then there should be a lengthy period of community service and probation. She also submitted there should be a fine. Reparation in the sum of \$190 was sought. This mainly related to damage to a torch which was said to be worth in excess of \$150. There was however no evidence of its exact value. I am prepared to accept from what I have seen that the torch may have been worth approximately \$100. In addition to that the medical costs of \$20 had been established, this would mean that any reparation would be in the sum of \$120. I do not allow the cost of the extra medical reports.
- [7] Mr Rasmussen filed helpful written submissions. In the main these were focussed on putting the events that led to the charges in what he thought was a proper context. In large measure his concerns have now been accommodated in the amendments that counsel made to the summary of facts and which I have already mentioned. I am grateful to Mr Rasmussen for his assistance in addressing that.
- [8] I do not believe that this first offender should not be subject to a custodial sentence. I think that would be out of all proportion. It seems to me that the gravity of the offending would most adequately be recognised by sentencing Mr Suraki on each of the two lead offences, such sentence to be served concurrently, as follows:
- a) community service for a period of 6 months from today;
 - b) probation for a period of 12 months from today;
 - c) reparation in the sum of \$120;
 - d) Court costs on each of the five charges of \$30 each, payable immediately.
- [9] I enter a conviction on all five of the charges but in relation to the other three charges you are convicted and discharged.

[10] I do not propose ordering that Mr Suraki pay a fine in addition. In addition to the matters that I have already set out and following the Probation report, I direct that Mr Suraki is not to purchase or consume alcohol during the period of probation, that he is not to leave the Cook Islands without the prior approval of the High Court, and that he is to attend any courses as directed by Probation.

[11] You may stand down.



Tom Weston
Chief Justice