

**IN THE HIGH COURT OF THE COOK ISLANDS      CR NO: 463/2015**  
**HELD AT RAROTONGA**  
**(CRIMINAL DIVISION)**

**POLICE**

v

**KATRINA BARTLEY**

Date:            11 March 2016

Counsel:        Ms A Mills for the Police  
                     Ms M Henry for Defendant

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**SENTENCING NOTES OF THE HONOURABLE JUSTICE DAME JUDITH  
POTTER**

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[1]      Mrs Bartley, you are before the Court for sentence on one charge of careless driving causing injury. The maximum penalty for that offence is five years imprisonment or a fine not exceeding \$5000.00. You will appreciate from the severity of the maximum penalty that this is regarded as a serious offence by Parliament.

[2]      I will summarise the facts of the matter noting a slight difference of view in relation to those facts but in essence the difference doesn't make a difference, because you accept that the unfortunate collision occurred.

[3]      On Tuesday the 15<sup>th</sup> September 2015 at about 1:35pm you were driving on the left inland side of the road heading towards the airport from outside the Ocean Fresh Fish Shop. The summary of facts state that the victim, Terai Aratangi was travelling behind you in the same direction in the centre of the left lane on her motor cycle. The summary of facts states that you made a U-turn in front of the victim and the impact occurred. Your version of events

is slightly different. You say that you had completed the U-turn and parked at the side of the road. You saw a rental car reverse out of the Ocean Fresh Fish shop. You did not see the victim. You proceeded to drive into the road and the collision occurred.

[4] The victim received serious injuries, a fractured left thigh, a fractured right arm, a fractured lower jaw and numerous cuts to her upper body. She underwent surgery in Rarotonga hospital. She spent 10 days in hospital, being discharged on the 25<sup>th</sup> September 2015 and she continues to receive physiotherapy for her injuries.

[5] You Mrs Bartley, have done all that could be done in light of this very unfortunate collision. You have remained in touch with Terai Aratangi and her family, you have met with them, you have apologised and expressed genuine remorse. You have made an ex gratia payment of \$10,000.00 to assist with the purchase of a new motor bike and other costs incurred by Terai and her family. While you were away from Rarotonga for a period, you maintained regular contact with Terai's grandmother.

[6] As Ms Henry states in her submissions, the incident has brought the two parties together and Terai expresses no feelings of ill will towards you and has forgiven you. She does not want that you should be imprisoned in relation to the offending with which you have been charged.

[7] The Crown has acknowledged that the victim impact statement is incorrect when it talks of the victim being unsure whether she would forgive you. Clearly, that is not the case. The victim's grandmother Mrs Heather describes her as a very strong person after the accident and has confirmed that there are no ill feelings against you. She accepts, and the family accepts that this was a very unfortunate accident.

[8] Nevertheless, I must sentence you. The purposes of sentencing are to promote in you a sense of responsibility, (but quite frankly there is no sentence that this Court could impose which would achieve that beyond the experience that you have suffered); to denounce your conduct, to deter others from like offending, but at the same time to impose the least restrictive outcome that is appropriate in the circumstances. I must take into account, and I do so, the particular circumstances relating to you.

[9] I acknowledge your early guilty plea, the ex gratia payment of \$10,000.00, your genuine remorse and apology to the victim, and the fact that at the age of 72 years this is your first appearance before the Court.

[10] I have noted the several cases helpfully referred to me by counsel. I consider there are circumstances unique to this offending and in all those circumstances I accept the recommendation of your counsel that a fine should be imposed and nothing more.

[11] Accordingly, I fine you \$750.00. There will be a disqualification from driving for 12 months. but I guess that is going to occur anyway.

[12] You may stand down.

*Potter, J.*

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**Judith Potter, J**