

POLICE

v

ANDREW PATERSON

Date: 4 May 2017

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

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

[1] Andrew Paterson, you are before the Court for sentence on a charge of careless driving causing injury. The maximum penalty for that offence is 5 years imprisonment or a fine not exceeding \$5,000. You will appreciate from the severity of the maximum penalty that this is regarded by the Cook Islands Parliament, and indeed by the New Zealand Parliament, as a very serious offence.

[2] I will summarise the facts of the matter noting that you have taken issue with a couple of aspects of the Summary of Facts. You entered your guilty plea on the basis of the Summary of Facts and thereby accepted what is stated in the Summary of Facts.

[3] You were in Rarotonga undertaking contract work at the time. I understand you continue on contract with the Airport Authority.

[4] On 18 February 2017 you were driving a rental car on the Main Road near Matavera. The two victims in this matter, a mother and her daughter, were travelling on a motorbike, the mother driving, the daughter aged 13 years as a pillion passenger. The accident happened

near the Takitumu School. The motorbike stopped on the side road waiting for traffic to pass in order to make a turn right onto the Main Road. You, travelling at speed, veered off onto the inland side of the road and travelled about 30 metres before crashing into the right side of the victim's motorcycle dragging it and the victims about 6 metres. You were travelling at the time in a zone with a 20 kilometre per hour speed limit.

[5] Both the victims suffered serious injury. The daughter suffered lacerations to her foot that required ten stitches and a fracture to her distal fibular bone. The mother suffered multiple injuries including a left shoulder dislocation, a right fibula fracture and a laceration on the left foot. They still suffer from those injuries, though at least in the case of the daughter, recovery has been good.

[6] I have read the Victim Impact Statement provided by the mother and also a letter dated 20th February 2017, submitted under the name of Florida Hosking Apera.

[7] There is no doubt that the consequences of this accident and your offending have been very serious indeed for these people.

[8] Mr Rasmussen, on your behalf, has submitted that there are significant mitigating factors in this matter, which I accept. You entered an early guilty plea. You are a first offender. You are clearly remorseful for what has happened. You accept your obligation to pay reparation to the victims for the costs they have incurred and also to pay costs incurred by the Police.

[9] I understand from Mr Rasmussen that you will in future be discussing with the victims compensation on a civil claim basis. The important thing is that you accept utterly responsibility for this accident, and your remorse is apparent.

[10] The Courts have made clear in the past that a custodial sentence is warranted for offending such as this. Both the Crown and Mr Rasmussen have submitted that a custodial sentence should not be imposed in your case. You are a New Zealand resident though working currently on contract in the Cook Islands.

[11] I accept those submissions. Instead of a custodial sentence I will impose on you a fine and an order that reparation be made. I note you have paid a \$5,000 bond in respect of bail. That will become available to you towards the costs you must meet and I fully expect that you will be making a further payment to these victims whose situations have been rendered so adverse by this incident.

[12] The purpose of sentencing is to promote in you a sense of responsibility but quite frankly there is no sentence this Court could impose which would achieve anything beyond the experience that you have suffered in this unfortunate event.

[13] The sentence must denounce your conduct, deter others from like offending but at the same time impose the least restrictive outcome that is appropriate in this circumstances. I take into account the particular circumstances relating to you which are referred to in the helpful Probation Report dated 1 May 2017.

[14] Accordingly I fine you \$3,000. You will be disqualified from driving for 12 months. I note that that will take effect only in the Cook Islands. That disqualification is to take effect from next Monday, 8th May 2017.

[15] I order reparation to be paid as follows:

- a) \$3,300 being the replacement cost of the motorcycle
- b) \$70 for medical expenses
- c) \$40 being the cost of medical reports incurred by the Police

[16] That is the sentence, you may stand down.



Judith Potter, J