

CROWN

v

JODICEE REREMOANA

Hearing date: 14 September 2017

Counsel: Ms A Mills for the Crown
Mr M Short for the Defendant

Sentence: 14 September 2017

SENTENCING NOTES OF THE HONOURABLE JUSTICE PATRICK KEANE

[9:40:58]

[1] Jodicee Reremoana, you are for sentence for three offences on the 27th February 2017; a robbery, which was your primary offence, and possession of cannabis and of a bong.

[2] At 8.28 pm on that Monday evening you went to the Woo Shop at Titikaveka and confirmed that there was only one person there, Ms Poila. Having found that out, you left and close by, concealed by some hedges, you put what I now understand to be a t-shirt around your head, you took out a knife and you returned to the store.

[3] You approached Ms Poila as she was putting drinks in the fridge, from behind. You took her left hand with yours and with your right hand you held the knife against her neck. You walked her to the counter and you made her empty the cash register. You took away, it appears, \$620 cash recovered later that night. Also two cheques totalling \$142 which you ripped up and flushed down the toilet.

[4] Despite the fact that you had the t-shirt around your head Ms Poila recognised you afterwards from CCTV footage in the store and in fact she knew you.

[5] At 10 pm that night the police apprehended and interviewed you. You first denied the offence but did admit before the interview concluded that you were responsible. The police searched your house and found the cash, and a bong, and 3.9 grams of cannabis you admitted were yours.

[6] The effect of your primary offence, the robbery on your victim, was predictable. She was not injured but the effect on her emotionally was very real and she continues to feel anger, principally, as a result of what she then suffered.

[7] These three offences are your first of any kind and you have the benefit of a full and sympathetic pre-sentence report, which explains that you come from a highly responsible family; your brother, in reality. He is shocked by your offending and has described it as completely out of character.

[8] Before this offence, you had begun to complete a trade certificate. And, as your report confirms, you offended because you had become desperate. You owed rent and money for food. You were under pressure. In that state you decided that your only resort was to commit this very serious offence.

[9] It was only afterwards, your report says, that the reality came home to you. You realised what a serious offence it was. You wanted to apologise to your victim and her family, whom you and your brother knew, but your terms of bail prevented that from happening.

[10] Your report then says, however, that given the seriousness of your offence the only sentence able to be recommended is imprisonment; that appears inevitable.

[11] The Crown, in its submissions, starts from that premise and contends that, for reasons I am going to return to, a sentence of imprisonment with a starting point lying between 3 - 4 years is proper.¹ The Crown seeks an uplift for your drug offences, which will attract a concurrent sentence.

[12] Your counsel, in his careful and complete submission, invites me to take as fully into account as I can how uncharacteristic of you this offending is, essentially for the reasons set out in your pre-sentence report.

[13] He emphasises that after a troubled start in life you were brought up in the outer islands and then came to Rarotonga with your brother some years ago, settled and began your life very positively here (I have already mentioned your trade certification). But, when you began to live apart from him, your life fell completely out of shape.

[14] He has also brought home to me that, when you committed this offence, you were not simply subject to the ordinary pressure of having to pay rent and for food. The likelihood is that you were in a state of depression, for which you have received counselling since. You were not thinking rationally. You were thinking desperately.

[15] He has pointed out also that, after you were released on bail, you obtained work. You are very well thought of by your present employer. He therefore submits that it would be proper in your case for me to impose the least sentence I am able to impose for such serious offending.

[16] I do have to say to you that your primary offence is serious. It was a robbery, which could have been charged as an aggravated robbery, of a shop open to the public. You went into the shop beforehand and checked out who was there. You then went and disguised yourself, took out your knife and returned. The shop assistant, whom you knew, the only person there, was highly vulnerable. You presented the knife to her throat.

¹ *R v Mako* (2000) 17 CRNZ 272, [39]-[46], [56]

[17] You may not have intended to do more than intimidate her. But, as I imagine you now know, once you present a knife to someone's throat that can result in very serious injury even unintentionally. So whether you intended to harm her or not she was at risk. It is very fortunate that she complied and that nothing happened. As the Crown says also, members of the public could have come in. Again, the moment there is a knife there is a risk, and not just to the one intended.

[18] These features of your primary offence cannot be minimised and, as a matter of principle, in sentencing you I am obliged to hold you accountable for your offence, to denounce it, and to impose on you a sentence which deters you and anybody else in this community from offending in this way.

[19] As the Crown says, robberies of this kind, fortunately very rare here in the Cook Islands, are very serious offences and it must be plain that they cannot be committed without consequence. They will attract lengthy sentences of imprisonment, if need be.

[20] As your counsel accepts he cannot contest, I must take a starting point of the order of the Crown submitted for your lead offence, the robbery. The Crown contends a starting point lying between 3 to 4 years. I will take a starting point of 3.5 years.

[21] The Crown then asks me to uplift that starting point for your drug offending. But serious though that offending is in isolation, it is not anything like as serious as the robbery; and imprisonment for a first offender is unusual. I do not intend therefore to uplift the sentence on that account. As a matter of totality that would be excessive.

[22] Instead I reduce my starting point by about 10 percent for two reasons. One is that until this offending you were a person of good character and it was out of character. The other is that quite distinctly from your guilty plea, to which I will come to in a moment, you have expressed remorse. I also discount the time you spent on remand in custody, towards a month. I allow you 30 percent for your guilty plea at the first opportunity. And finally, so that the sentence is not too crushing for you, given your age and state, I round it down.

[23] The upshot is that for the robbery I sentence you to imprisonment for 2 years. For your two other offences, the possession of cannabis and the bong, I impose concurrent sentences of 2 months. Your sentence as a whole remains 2 years. There will be an order for destruction of the bong and the cannabis and you will pay \$50 Court costs.

A handwritten signature in blue ink, appearing to read "Patrick Keane, J.", is written above a horizontal line.

Patrick Keane, J