

POLICE

v

TEPAKU UINI

Hearing Date: 18 September 2017

Counsel: Mr T Manavaroa for Prosecution
Mr W Rasmussen for Defendant

Minute: 18 September 2017

SENTENCING NOTES OF THE HONOURABLE JUSTICE PATRICK KEANE

[1:23-13]

[1] Tepaku Uini you appear for sentence for careless driving causing injury on 16 December 2016.

[2] At 5.38pm that Friday you were riding your motorcycle from town towards Matavera. You had a pillion passenger. At Tupapa you overtook two cars which had either slowed down or stopped to allow a motorcycle in front of them to turn right.

[3] It appears that you overtook because you could not brake in time and you must have been travelling too close to the car in front of you; that is where your carelessness lay. You collided with the motorcycle for which they had slowed down because it was turning right.

[4] Your pillion passenger got caught on its handlebars and he was thrown off your bike. He suffered pain but no injury. The rider of the other motorcycle suffered a cut to his left arm. At hospital he was treated by a nurse in triage and discharged. Whether his motorcycle suffered damage is not established.

[5] The police seek a sentence that deters you from driving carelessly, holds you accountable for doing so, and for the injury you caused, protects the community and denounces your offence.

[6] Relying on recent comparable decisions the police contend you should be fined. Yours is not a case, the police accept, in which imprisonment is required although that, as the cases show, can be the starting point where injury results. The offence is regrettably prevalent in Rarotonga and a severe response can be essential to protect the community.

[7] You have the benefit of a positive pre-sentence report and this is your first offence. At age 20 you are a carpenter not presently in work. You and your partner, who is here today, are not living together because you look after your elderly grandmother, I understand. You have two young children aged 3 years and 3 months; a considerable responsibility which she is currently carrying mostly. You accept responsibility for the accident. You are deeply sorry. You do not wish to appear before the Court again.

[8] In sentencing you I have to say that you were careless. You were travelling too close. Your carelessness put at risk your pillion passenger, the rider of the other motorcycle, and you yourself. There is, however, no suggestion, as your counsel says, that you were driving at an excessive speed. Nor any suggestion that you had been drinking. You were simply careless but your carelessness carried a real risk for everyone.

[9] Originally the police did seek reparation but the extent of the damage to the other motorcycle, if there was any, has not been substantiated and the police withdraw that application.

[10] The cases to which I have been referred establish that if you were to be fined, the fine would be beyond your means and for that reason I have decided instead to impose on you a sentence of probation for the minimum term of 12 months and community service at the level usual for first offenders, 3 months. You will pay Court costs of \$50.



Patrick Keane, J