

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

**CR NO's 31-32/2017
665/17, 52/2018**

POLICE

v

TALIMEALAHU TUILEILA (TALI OFA)

Counsel: Senior Sergeant F Tararo for Crown
Mr N George for Defendant

Sentence: 30 January 2018

**SENTENCING NOTES OF THEIR WORSHIPS,
JUSTICES OF THE PEACE, MRS CARMEN TEMATA, MRS BERNICE
MANARANGI and MR TAEPAE TUTERU**

Introduction

[1] The defendant, Talimealahi Tuileila, you appear today for sentence on two charges of burglary under s 263 of the Crimes Act 1969, carrying a maximum penalty of 10 years imprisonment and two charges of contempt of Court order under the Judicature Act 1980-81, ss 36 and 37, carrying a penalty of a fine not exceeding \$100 or imprisonment not exceeding 6 months.

Background

[2] In the early hours of the morning on 25 January 2017 you burgled two homes in the Nikao area.

[3] At the time you and your accomplice, Robert Piniata, were camping with family on the beach nearby.

[4] One of the buildings you burgled is the property of Teariki Heather where you took bottles of wine from the fridge.

[5] The other building you burgled is a tourist accommodation, the Nikao Cottage, where two tourists, a father and son were staying. The items you stole from their accommodation included the father's passport, a wallet containing \$200, a pair of running shoes, baseball bats and a quarter full Bombay blue bottle of gin.

[6] On 6 September 2017, a defended hearing was held before a three JP panel and on 5 December 2017, the JPs delivered their decision, finding you guilty of both charges.

[7] This is your third appearance before this Court on a burglary offence however, we have been provided with your offending history from 2010 to 2017 which is dismal reading. These include charges of burglary, joint burglary, assault on a female, theft by finding, theft by conversion, assault with intent to injure, excess breath alcohol and several breaches of probationary license and contempt of Court.

[8] While custodial sentences have been imposed on some of the charges, some have also been withdrawn and suspended sentence were also imposed for some charges.

[9] The Court noted that the latest two contempt of Court order charges, which you pleaded guilty to, occurred while you were at large awaiting to be sentenced today.

[10] This highlights the fact that in spite of the various sentencing options imposed by the Court in the past, you continued to re-offend thereby showing little respect for the law.

[11] We read your probation report and noted that you are now relocated to Arorangi as your partner said to get you away from the influences of your friends.

[12] Your report highlighted the fact that you are a builder by trade and the only bread winner in your household and that you have three young children of 3 years, 2 years and 6 months old. Your wife stays home to care for your children. This is a huge responsibility on any family in such a situation.

[13] However, you alone are to be blamed for the situation you found yourself in and only you can make the changes to your life for the sake of your family.

[14] We hope you are not using your family to get sympathy from the Court so you can get off lightly because you know what you did was wrong and you must be held accountable for your actions and also denounce your conduct.

[15] Without a doubt, alcohol is a major issue which contributed to your disregard for the law. Counsel has told the Court that you have now quit drinking alcohol. The question is for how long? You can answer that for yourself.

[16] The burglaries occurred at a private home and tourist accommodation and was premeditated. This is of concern to the community and the tourist industry.

[17] We acknowledge that the value of the items you stole from the two houses were not significant but nevertheless crime was committed.

[18] You heard that Crown recommended a custodial sentence from 9-12 months to be followed by 12 months probationary supervision.

[19] The Probation Service on the other hand has recommended 12 months probationary supervision with the first 6 months on community service.

[20] After much discussion we, the panel, have agreed to accept the Probation Service's recommendation having taken into account the above factors and the adverse impact on the livelihood of your young family if you are imprisoned.

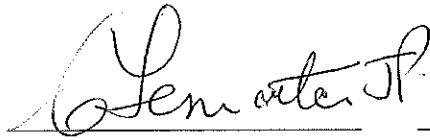
[21] Therefore, you are convicted and placed on 12 months probationary supervision on all charges to commence after the expiry date of 18 July 2018 of your current probationary supervision period.

[22] The following conditions are also imposed:

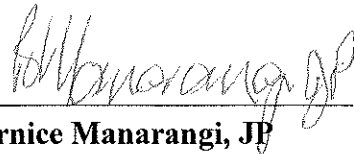
- a) You are not to purchase and consume alcohol;
- b) You are not to enter any liquor licensed premises except restaurants; and
- c) You are to attend counselling or workshop as directed by the Probation Service.

[23] You are ordered to pay Court costs of \$50 on each charge, totalling \$200.

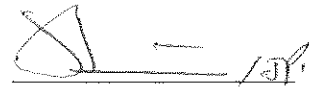
[24] You are cautioned that should you re-offend while on probationary supervision, the Court will not be lenient towards you. That decision is in your hands now.



Carmen Temata, JP



Bernice Manarangi, JP



Taepae Tuteru, JP