

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

CR NO. 247-248/18

POLICE

v

METUA NGARANGI

Date: 16 November 2018
Counsel: Mr F Tararo for Prosecution
Mr N George for Defendant

SENTENCING NOTES OF THE HONOURABLE JUSTICE PATRICK KEANE

[2:45:31]

[1] Metua Ngarangi, you appear for sentence for three offences on 21 April 2018. You drove while disqualified. You drove carelessly causing injury. You failed to stop to see whether any injury had been caused and to offer assistance.

[2] At about 9.11 pm on Saturday, 21 April 2018, you were involved in an accident on your motorcycle with Rakesh Kumar who had been in a relationship with your 21 year old daughter. He is the same age as you, or older, and you said, when spoken to, that you only wanted to talk to him about your daughter. That is why you were driving after him.

[3] You admitted to overtaking him on the left side while you were both heading in the same direction and the right handle of your cycle hit his left handle and both you and he fell on the ground. You admitted that you did not stop to assist him. You were also scared because you were driving while disqualified.

[4] As a result of the accident he received injuries to his left arm and left leg. You say through your counsel today that you also suffered equivalent injuries and that after you both fell off your cycles you felt he was equivalently injured and you did not remain.

Presentence report

[5] You were, at the time, subject to a sentence imposed on you on 13 July 2017, a 12 month term of supervision and an equivalent term of disqualification. Your presentence report however is sympathetic to you.

[6] It confirms that you and your partner have been in a stable relationship for many years and that you have two children, the older of whom is your 21 year old daughter who was your point of concern that evening. (I should add that you were then subject to supervision for having assaulted your partner, so your relationship might not then have been quite as ideal as your report suggests.)

[7] You are also in stable work and have been for many years. The report says, and your counsel confirms, you are very well regarded by your employer.

[8] You were, when interviewed, frank that you had acted in a foolish and immature way. Your concern was for your 21 year old daughter. You believed Mr Kumar was married with children. You thought your daughter's wellbeing was at risk. It turns out that he was not then married but he was about your age. You explained that when you left you panicked.

[9] Your report recommends a further 12 month term of supervision and 3 months community service.

Submissions

[10] The police submission is that you should indeed be resentenced to supervision for 12 months and to community work but for 6 not 3 months. That you drove while disqualified, drove carelessly, caused injury, and did not stop to face up to any injury you had caused leads to that submission.

[11] The police contend also that you must be disqualified for a further 12 months and recommends that you make an emotional harm payment of \$600.

[12] Your counsel emphasises to me that the only reason why you were following Mr Kumar was out of concern for your daughter. You only wanted to talk to him and to dissuade him from the relationship, nothing more sinister. A fortunate outcome is that he and your daughter no longer see each other.

[13] He emphasises that you suffered injuries equivalent to Mr Kumar and had reason to suppose that if you were able to ride away so was he and had not any urgent need to remain to help him. You could, if you were pressed, make an emotional harm payment of \$350, a week's wages, and would do so.

[14] He submits that a sentence of community work would cause you and your family hardship because it would require you to give up a day's work on a Saturday. If community work is to be imposed he submits for 3 months. He accepts that disqualification must follow the event.

Conclusion

[15] Mr Ngarangi you were clearly very foolish to follow Mr Kumar as you did on your cycle. You were careless in coming up beside him on the left hand side and obviously very closely. The accident was one waiting to happen. It is fortunate that neither he nor you suffered any greater injury than you did.

[16] You left straight afterwards. He may not have appeared too severely injured but you had caused his injury. You also had a fear because you were driving while disqualified and you knew you should not have been.

[17] I consider it essential to impose on you community work as well as to impose supervision and disqualification on you. I do not intend to impose a duty to make an emotional harm payment. The sentence I do intend to impose is severe enough to bring home to you responsibility for your offences.

[18] You will be convicted of these three offences. You will be sentenced on each to supervision for 12 months commencing today. You will be disqualified from holding or obtaining a drivers licence for 12 months. You will be sentenced to community work for 4 months, the first 4 months of your supervision sentence.

[19] You will pay \$20 costs for the medical examination made of Mr Kumar.



Patrick Keane, J