

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

CR NO. 651/18

POLICE

v

TE PUTANGI MOSE

Date: 22 November 2018
Counsel: Ms K Bell for the Crown
Ms M Henry for the Defendant

SENTENCING NOTES OF THE HONOURABLE JUSTICE PATRICK KEANE

[9:08:40]

[1] Te Putangi Mose, you appear for sentence for careless driving causing injury at Amuri on 27 July 2018.

[2] At 7.45 am a police constable on her way to work came across an accident in front of the Aquila shop in Amuri. Ms Raveora who was travelling to work on a motorcycle collided with your car. You were questioned about this in the presence of your daughter. You could not recall, because you had a memory lapse, but you admitted to being at fault.

[3] As it turned out you had driven to the shop that morning to buy some bread and other items. You had with you your three great grandchildren. You stopped inside the parking area facing towards the airport. When you returned to your car you checked in the right rear vision and saw a motorcycle approaching from the Aquila petrol station.

[4] You drove onto the road turning right to return home. But you found you did not have enough space to turn the car so you reversed back into the shopping area. When you returned to the road a second time, turning right, the collision happened.

[5] Ms Raveora was transported to hospital by ambulance and later flown to Rarotonga. The upshot unfortunately was that her left leg had to be amputated below the knee.

[6] She wrote a letter in September this year saying that she did not wish to formally press charges against you. She was very thankful her injury was not worse. She wished to re-establish her life. She accepted that you did not intend to cause the accident. Any claim for compensation she said should be settled between the two families.

[7] In her victim impact statement she says however that she did suffer extremely. It has had an effect on her life and her ability to lead her life. She can no longer take part in sports, as she used to, and feels dishonour and embarrassment. She has returned to New Zealand where she will live with her family and regather her life with their care.

[8] Your counsel and counsel for the Crown are agreed that the sentence recommended in pre-sentence report, a large fine, in your case is not warranted.

[9] The Crown says that the level of carelessness you displayed was moderate, although that stands in unfortunate contrast to the very serious injury that Ms Raveora suffered. However she has been notably forgiving.

[10] At age 80, the Crown says, you have no previous convictions and you have been willing to make amends. The Crown's essential submission is that you have reached a point where you should no longer be driving and that all that is required is a lengthy term of disqualification. That would meet any public concern as well.

[11] Emotional harm compensation, the Crown says, can be resolved between families as Ms Raveora herself has suggested.

[12] You are a well respected man, highly regarded in Aitutaki. You have served on the bench of the Aitutaki High Court as Justice of the Peace for 30 years and devoted most of your life to serving the people of Aitutaki.

[13] You were diagnosed earlier this year with mild cognition impairment. You accept that you should not be driving and you recognise the risk that you now unfortunately pose to other users.

[14] I agree with the submissions of both your counsel and the Crown that in your case it will be enough, in the public interest as well as your own, to convict you of this offence and disqualify you from holding or obtaining a driver's license for 3 years.

[15] I order you to make reparation of \$896 for loss of income, and \$710 for damage to the bike.



Patrick Keane, J