

**POLICE**

v

**HENRY KAKINO**

Date: 31 July 2018

Counsel: Mr T Manavaroa for Prosecution  
No appearance for Defendant

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**SENTENCING NOTES OF DOHERTY J**

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[9:38:37]

[1] Henry Kakino is for sentence for possession of a bong which is a utensil designed for the smoking of cannabis. The police executed a search warrant at his property and two of them were found – he is being charged with possession of one of those.

[2] Mr Kakino has no previous convictions before the Court.

[3] I have had the benefit of submissions from the Police and a Probation Service report. Probation service have spent some time with Mr Kakino and his family, basically tells me that Mr Kakino you now have a good job at the local bakery, you have had that for some years, you are a good worker I am told, you are in a relationship which has been going for some seven years and you have a 4 year old daughter. You are described as being a supportive and good person around your family.

[4] The use of the bong was for your personal use. I am not sure because you have not told me and neither has anyone else whether how much cannabis you do smoke using these things, but you have just told me now that you are guilty for what you have done and you will

not do it again. I hope not. I hope you are a man of your word. You are described by the Probation Service as being an honest person.

[5] The police have referred me to previous indications from this Court that on this island and the Cook Islands themselves the issue of cannabis use is becoming too frequent. And the Courts in other cases, particularly where there has been involvement of people in the selling and supplying of cannabis and other drugs, that significant sentences on imprisonment are the starting point. In your case the police think that you are in one of those situations that deterrence of others and accountability for you mean that I should sentence you to a term of imprisonment.

[6] The aggravating features of your offending are that there was more than one bong so it leads me to the view that you probably use cannabis quite a lot although you have not been charged with doing that.

[7] In mitigation you are a first offender, you pleaded guilty at the first opportunity and you have been cooperative with the police.

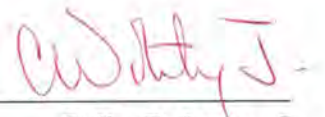
[8] The purposes of sentencing you are to make you accountable and you have accepted to me that you are accountable; to denounce your conduct whether, you think cannabis is a good thing or not, the law says it is not, so I have to denounce your conduct in using it. Probably more importantly is that of deterrence so that you are deterred from doing it again; you promised me you will not. But also that others are deterred from using cannabis or instruments to smoke it.

[9] I think that your offending is at the lower end of this category of offending. It is still serious because it carried a maximum sentence of 5 years imprisonment. It shows you what the community thinks of it. I am more attracted to the recommendation by the Probation Service that deterrence, denunciation and accountability can be met with a significant term of community work and probation to assist you not use cannabis in the future.

[10] So you are sentenced to 12 months probation, the first 3 months of which are you are to carry out community service as directed by the Probation Service.

[11] There will be two special conditions of your probation and those are the ones that are set out in the Probation report. Firstly, to attend any counselling or workshops as directed by the Probation Service and that may be for anything, not just for cannabis issues. And you are to abstain from the consumption of any illicit drugs. Now what that means is that if you are found with any illicit or illegal drugs you could also face a charge of breaching the sentence. And you never know, you might be re-sentenced for it.

[12] I also make an order for destruction of the utensil.

  
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**Colin Doherty, J**