

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

**CR NO'S 315-316/17  
123-124/17**

**POLICE**

v

**NGAMETUA TIATOA**

Date: 23 March 2018  
Counsel: Ms J Epati for Crown  
Mr M Short for Defendant

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**SENTENCING NOTES  
OF THE HONOURABLE JUSTICE DAME JUDITH POTTER**

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[10:27:51]

[1] Ngametua Tiatoa you are before the Court for sentence on a number of charges. Arising from events on 28<sup>th</sup> March 2017, one charge of burglary which carries a maximum penalty of 10 years imprisonment and one charge of common assault which carries a maximum penalty of 1 year imprisonment.

[2] Arising from events on the 10<sup>th</sup> June 2017, one charge of being found on property under the Crimes Act and that carries a maximum penalty of 3 months of imprisonment or a \$40 fine. And one charge of contempt of Court, which was for breach of a bail condition relating to your curfew, and 6 months imprisonment or a fine not exceeding \$1000 pertains. You have entered guilty pleas to all these offences.

[3] The Crown submits that a short term of imprisonment is appropriate to reflect this offending. I understand through Mr Short that you accept whatever sentence is imposed upon you by the Court.

[4] Briefly stated, the facts relating to your offending are that on Tuesday 28<sup>th</sup> March 2017, you burgled the home of Catholic Priest Father Fred Kaina in Arorangi, while he was away from his home. You took an assortment of groceries, a container of petrol and a collection box of money.

[5] Later, Father Kaina confronted you. You admitted the burglary and as he was walking away from you, you threw a rock at him, which caused a skin graze on his lower right arm. You were released on bail conditions including a curfew.

[6] On Saturday 10<sup>th</sup> June at around 11pm you were found in Magic Reef Bungalow which is tourist accommodation in Arorangi. You were intoxicated and there without a lawful purpose. You were asked to leave but you become violent and the police had to come and take you into custody.

[7] You have previous convictions dating back to 2014 – unlawfully found and theft in 2014; assault on a female and contempt of Court in 2015; and in December last year, theft, breach of probation, wilful damage, assisting escape from lawful custody. For those offences, 3 months' imprisonment was imposed to be followed by 12 months' probation.

[8] The sentencing principles of which I must be mindful, are the denunciation of your conduct; to hold as far as possible accountable for the harm that you have done to the victim and the community; to deter you and other offenders from committing similar offences; to promote in you a sense of responsibility and acknowledgement of the harm that you have done; and to protect the community from you and your persistent offending. But at the same time to try and assist in your rehabilitation and reintegration.

[9] That last principle, in the circumstances of this case, presents a challenge because Mr Short explains that you have been homeless on many occasions because you are without family support. But you have positive reports from your time in prison where you have worked and clearly worked well.

[10] A report from Dr Rangia Fariu dated 15 December 2017, concludes that you are alert, orientated, calm, cooperative and likeable. That you are free of depression and confusion and

that you appear to be able to think clearly. He notes, however, that you will need much ongoing support and guidance when you are in the community.

[11] That is a very positive report Mr Tiatoa and clearly you have spent well your time in prison. But you cannot stay in prison forever. The challenge for you will be to show those strengths as they have been identified by Dr Fariu, in your lifestyle in the community.

[12] The lead charge is clearly burglary, which is a serious offence. I impose on you in respect of that charge a sentence of 7 months imprisonment.

[13] On the common assault charge, 1 month imprisonment.

[14] On the charge of being found on property, you are convicted and discharged.

[15] For the contempt of Court order, 1 month imprisonment.

[16] Those terms of imprisonment to be served concurrently. There will be an order for probation supervision of 12 months following release from prison, which relates to all convictions.

[17] I order Court costs of \$50.

[18] Mr Tiatoa, I wish you well, and for those who are prepared to help you, please take their help. Please stand down.

*Potter, J*

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**Judith Potter, J**