

POLICE

v

NANI TERINA TEIRI-KARAITI

Hearing date: 25 August 2020

Counsel: Ms J Epati for the Crown
Mr K Ahsin for the Defendant

Sentencing: 25 August 2020

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

[11:28:39]

[1] Ms Karaiti is before the Court for sentence on two charges to which she has entered guilty pleas. The first is a representative charge of theft as a servant under the Crimes Act which carries a maximum penalty of 5 years imprisonment. The second charge is one of forgery which carries a maximum penalty of 10 years imprisonment.

Facts

[2] The defendant, employed as a Wedding and Events Manager for Muri Beach Club Hotel in Rarotonga, was responsible for a wide range of tasks. They included local and international customers in relation to payment for future events including weddings.

[3] In accordance with the employer's Employment Policy and Procedures Manual all monetary funds received from customers were to be paid directly to the employer, Muri Beach Club Hotel.

[4] Over a period of two years and two months and on no less than 55 separate occasions the defendant directed customers to pay money directly to her bank accounts. She used five bank accounts for this purpose located in both New Zealand and the Cook Islands.

[5] A total of just over \$150,000 was paid into her personal bank accounts which should have been paid in accordance with the employer's Policy and Procedures Manual directly to Muri Beach Club Hotel.

[6] Some of this money was then on-paid by Ms Karaiti to her employer but not all of it. When the offending was discovered by the General Manager of Muri Beach Club Hotel approximately \$60,000 was identified as missing and misappropriated. It is to her credit that when confronted with this misappropriation, over a period of three days the defendant paid an amount totalling \$30,000 to Muri Beach Club Hotel. Approximately \$30,000 remains outstanding.

[7] The defendant used various methods to cover her tracks. She would use funds collected from a particular wedding and distribute it in payment of other weddings. She would manipulate her employer's records so that the amount showing as the price of a wedding or event was less than what the customer had been charged.

[8] The various devices she used were manipulative and sophisticated. The offending commenced as far as is known on the 14th November 2017 and continued until termination of her employment in March 2020.

[9] In relation to the forgery conviction Ms Karaiti advised the General Manager of Muri Beach Club Hotel that she was going to get Bluesky vouchers to complement the staff party end of year gift packs. She said she would get these at no cost to the company as she had a good relationship with Bluesky.

[10] She then entered into an arrangement with Bluesky, which is now Vodafone, where she gave them vouchers for their staff to attend an Island Night in exchange for the Bluesky vouchers. The vouchers to the Island Night were purportedly signed by the General Manager of the Muri Beach Club Hotel. The signature was forged by the defendant.

[11] She made these arrangements without authority to distribute Island Night vouchers to Bluesky in exchange for Bluesky vouchers. The total she received as the result of this manipulation was \$940 worth of Bluesky vouchers of which only \$120 worth of vouchers was contributed to the gift packs.

Victim Impact Statements

[12] I have read victim impact statements from Liana Scott and Daena Kataina, the General Manager and Assistant Manager of the Muri Beach Club Hotel. Unsurprisingly they refer to their huge shock and disappointment at the significant breach of trust involved in this offending.

Probation Report

[13] I have also received and read a helpful pre-sentence report. It refers to there being no remorse expressed by the defendant for her offending and no reasons given. A custodial sentence is recommended.

[14] In submissions this morning Mr Ahsin has emphasized that, although expressed very late in the piece, Ms Karaiti is indeed remorseful and apologises to the Court and to those affected by her offending. The apology is directed particularly to her husband and son.

Purposes and Principles

[15] I must have regard to the purposes and principles of sentencing in the New Zealand Sentencing Act 2020. In this case deterrence is an important principle and purpose both generally and particularly.

[16] In this respect I note with disappointment that the defendant has a previous conviction in 2008 as for theft as a servant. A non-custodial sentence was imposed in that case. As I say it is a matter of significant disappointment that that sentence and experience has not deterred her from this subsequent very serious and ongoing offending.

Aggravating Factors

[17] The Crown point to the aggravating factors of the offending. The serious breach of trust, the planning and skill involved and the manipulation and sophistication of the methods

of concealing the theft of customer funds which enabled the avoidance of detection over a lengthy period. The span of the offending, which I have already mentioned, November 2017 until March 2020 – the forgery took place in March 2020. The significant amount of money involved \$150,000 with a deficit of \$60,000 of which \$30,000 has been repaid and \$30,000 remains outstanding.

[18] In relation to personal aggravating factors the previous conviction for theft as a servant in 2008.

Mitigating Factors

[19] In mitigation the defendant pleaded guilty and is entitled to a discount for that. Her counsel urged on me that and she should also receive some credit for the early payment of \$30,000 and her willingness to repay the balance of \$30,000 when her financial situation permits.

Submissions

[20] In submissions, both counsel referred me to the previous decisions of *Nicholls*¹, *Quarter*² and *Matapo*³, where in respect of crimes of theft as a servant, for sentencing purposes, starting points of 3 years, 2 years and 3 years respectively were taken.

[21] The Crown urges a starting point of 3½ to 4 years, noting that the offending in this case is more serious.

[22] Mr Ahsin for the defendant submits a starting point of 3 to 3½ years.

[23] There is no doubt the offending in this case is more serious than that in any of the three cases referred to me.

[24] It is important to note that the representative charge covers approximately 55 separate events. I take as the lead offence the theft offending, although it carries a maximum penalty

¹ *Nicholls v Police* [2002]; CKCA 1; CA 5/2002; 11 December 2002.

² *Quarter v R* [2011]; CA 3/11; 9 June 2011.

³ *Police v Matapo* [2016]; CKHC 10; CR 530-540/15; (1 June 2016); Hugh Williams J.

less than that for forgery, but clearly it is the principal offending, reflected by the representative charge.

Sentencing

[25] I take a starting point of 3½ years. For the early guilty plea I allow a discount of one-third which results in an adjusted sentence of 2 years and 2 months. To recognise the prompt payment in reparation of \$30,000 I allow a further 2 months. To that I add 2 months for the forgery conviction.

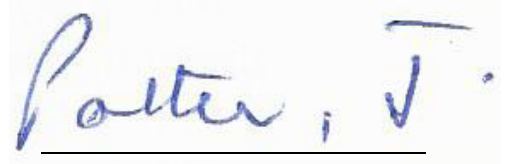
[26] The end result is a sentence of 2 years and 2 months imprisonment.

[27] There will be a reparation order for the sum of \$30,000.

[28] The Crown does not seek Court costs.

[29] Ms Karaiti, that is the penalty imposed on you. A sentence of 2 years and 2 months imprisonment. The only appropriate penalty for this type of offending is a custodial sentence.

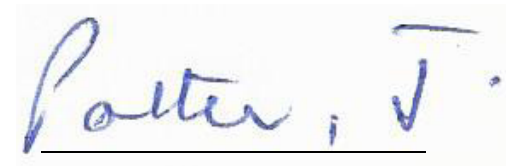
[30] You may stand down.

A handwritten signature in blue ink that reads "Potter, J." with a horizontal line underneath.

Judith Potter, J

NOTE: The sentence of 2 years and 2 months records the sentence agreed upon with counsel and confirmed by me after Mr Ahsin queried the calculation of the sentence following sentence being passed. In fact, the calculation of 2 years and 4 months was correct. The error arose in deduction of one-third for the guilty plea – the adjusted sentence in line 2 of [25] above, should have been 2 years and 4 months.

Nevertheless, I accepted counsel's submission with which the Crown did not take issue and accordingly confirmed the end sentence 2 years and 2 months imprisonment as recorded at [29] above.

A handwritten signature in blue ink that reads "Potter, J." with a horizontal line underneath.

Judith Potter, J