

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

**CR NO's 552, 551, 550, 549/2019**

**POLICE**

v

**NGAMETUANGARO PEKEPO**

Hearing: 14 April 2021  
Appearances: F Tararo for the Crown  
M Short for the defendant  
C Obeda for Probation Service  
Sentence: 14 April 2021

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**SENTENCING NOTES OF WOODHOUSE J**

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[10:21:09]

[1] Mr Pekepo, you may remain seated. I need to explain the sentence I am going to impose and it will take a few minutes. You have already heard that I do not intend to impose a sentence of imprisonment, but I need to explain what happened and why I am imposing this sentence.

[2] You pleaded guilty to three charges of threatening to kill and one of having possession of an unregistered rifle. The maximum penalty for threatening to kill is seven years' imprisonment, and that is something that I think you should reflect on. It is not whether you intended to kill somebody, it is the fact of the threat and the harm that a threat to kill can have on many people.

[3] The four offences all arise from a single incident on 22 September 2019. You had been drinking with others. Someone told you that your goats were being attacked by your neighbour's dogs. You say this had happened before and nothing had been

done about the dogs, and that is not disputed. You also say that you were drinking with an off-duty Police officer and perhaps others; and it was the Police officer who suggested that you go to your neighbours to make clear that the dog should be put down, and that you take an unloaded rifle to emphasise the point.

[4] The Senior Sergeant, as prosecutor, has told me in response to questions I asked about this, that there was a disciplinary inquiry in relation to the Police officer, but they could not find positive evidence to take the matter further. That is the essence of the advice to me. However, there is no direct challenge, nor could there be in a sentencing, to what you say, and I have some regard to what you have said without putting undue emphasis on it.

[5] The other thing I would say in that regard is Mr Short's submission when we were discussing this, that there is evidence, as I understand, in statements taken from prosecution witnesses indicating that the off-duty Police officer was in fact at the house where this incident occurred, and certainly having some discussion in the course of an argument.

[6] In any event, returning to the narrative of the facts, you got a .22 calibre rifle from your uncle's house and went to your neighbour's house with the off-duty Police officer. You took the rifle out of a bag and asked which of the dogs needed to be put down. An argument erupted and it was during this argument, at different stages, you threatened to kill each of your two neighbours and a friend of the neighbours who was at the house. Following this you left. I do not have any information to indicate how long this incident took, but it came to an end without anything further and it came to an end with your departure.

[7] There are victim impact statements from the three victims. The two women, in their statements, refer to their understandable emotional distress arising from what you did directly to each of them, separately. One said the first few days after the incident were very stressful, uncomfortable and traumatising. The male victim, being one of the neighbours, said only that he was very upset with you soon after the incident, but later accepted your apology. I will come in a moment to the letter that has been given to me from your two neighbours, asking that the charges be withdrawn.

[8] Your personal circumstances in briefest outline are as follows. You are 44-years-old. You have been in a defacto relationship for 22 years, and married your partner this year. You have three children, aged 22 and younger; all three live with you, as do their children. You are in stable employment and the main money earner for the family.

[9] You have three previous convictions. Two of those might have some relevance, but all three convictions are between 10 and 20 years ago and I put them to one side.

[10] There is further information before me of the reasonably solid contribution you make in a broader way to activities in the community. And, indeed, including contributions arising from the grazing of goats.

[11] In relation to the offence there is one aggravating factor, and I come now to the matters which bear directly on the sentence. The aggravating factor is that you carried a rifle. Threats to kill obviously can be made without carrying a weapon, but you also had a weapon; and undoubtedly that would have increased the real concern of the three people who were threatened. On the other hand, in relation to that, there is no suggestion that the rifle was loaded. There is a positive statement that it was not loaded. And there is also no suggestion that you had any intention of carrying out any physical threat.

[12] There are a range of mitigating factors which I take into account in determining that there should be no custodial sentence.

[13] First of all, your personal circumstances, which I have outlined. Next, you entered, in the circumstances, an early guilty plea to the charges of threatening to kill. And you pleaded guilty, I think at a very early appearance, to the possession of the unregistered rifle. The guilty pleas to the threatening to kill were not early in time, because there was delay in determining whether the charges should in fact proceed, because of the request from the neighbours that the charges be withdrawn.

[14] I accept that you have shown genuine remorse and you have demonstrated that in positive ways. You have reconciled with your neighbours who, as I say, originally did not want to press charges; and I have seen the letter from them to that effect.

[15] Mr Short has submitted, and I accept, that it was the third person, as she was entitled to, who insisted that the charge against her proceed which resulted in all three charges proceeding. And I just add there, Mr Pekepo, that it is often very important that these matters are dealt with through this system because there is a need to make clear the seriousness of these sorts of actions, and the need to try and ensure that they do not happen again.

[16] The next point of mitigation, in addition to the personal apologies to your neighbours, is that you paid compensation.

[17] Next, what you did is clearly out of character, based not only on the testimonials, but also the lack of any record of any serious offending for a lengthy period of time.

[18] You are in steady employment and I have a very positive testimonial from your employer.

[19] There is the submission, not disputed in this sentencing as such, that you acted, at least in part, on ill-considered advice as to how to seek to encourage your neighbours to do something about the dogs who had attacked your goats in the past.

[20] I am satisfied, as I have already indicated, that you did not go to the neighbour's house with an intention of threatening any person; you went with an intent to threaten the dogs if they did not deal with them. And I accept that you had no intention of carrying out any threat to cause any form of physical harm to any of your neighbours or the visitor.

[21] It is for all of those reasons that I accept what is in fact the recommendation, both of the Prosecution and the Probation Officer, as well as the submission of Mr Short, that there should be no custodial sentence.

[22] Mr Pekepo, you should now stand and I will impose the sentence. Please stand.

[23] On all four charges, the three charges of threatening to kill and the possession of an unregistered rifle, you are sentenced to probation for 12 months, with nine

months of community service during the course of that probation. As part of this sentence in relation to community service, it is a requirement of the Court that the community service must not interfere with your employment, currently with T&M Heather, because of the importance of that employment which is, I understand, six days a week in providing the financial resources for your large family, because you are the main money earner.

[24] The following conditions are imposed as part of probation:

- (a) You are not to buy or consume alcohol or go into licensed premises without permission from the Probation officer;
- (b) You are to attend counselling or a workshop as directed by the Probation officer; and
- (c) You are not to leave the Cook Islands without the permission of the High Court.

[25] That is the sentence imposed on you.

[26] The Police sought an order for destruction of the rifle; it is an appropriate order for the Police to have sought. However, you, Mr Pekepo, are not the owner of the rifle and you do not have any authority from the owner to effectively agree to that order for destruction. Accordingly, I make no order for the destruction of the rifle, but it is to remain in Police custody and the Police can take such steps as are appropriate to give notice to the owner.

[27] Take a seat, Mr Pekepo, that is the end of the sentencing.



**Peter Woodhouse, J**