

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

**AIT CR 3/2022  
53-54/2022  
438/2022**

**POLICE**

v

**JOHN JESSIE ROPATI TUIMAVAVE**

Date: 2 December 2022

Appearance: Ms J Crawford for the Crown  
Ms M Tairea for the defendant

---

**SENTENCING NOTES OF DOHERTY J**

---

[10:07:05]

[1] John Tuimavave, you have pleaded guilty to a number of drug related offences.

[2] You were caught up in Operation Tavake which was an operation carried out by the Police to investigate drug dealing and drug use on Aitutaki.

[3] You have been in Court I think and have heard me make remarks to others before you today. In relation to the sentencing of Mr Low I spent a little time giving the context of Operation Tavake and to where the Courts have given a steer to the community about how they deal with this and various categories of drug offending.

[4] You, like others, became a target because of information that came from concerned citizens of Aitutaki. Police executed a search warrant on your phone and analysed the data which showed that between January 2020 and October 2021 you were involved in supplying and offering to supply cannabis to others and there is a litany of the text messages here which are designed to show the Court the lengths you were going to.

[5] Having coming to the conclusions that they did, Police executed a search warrant on your home and there they found utensils that you had used for consuming cannabis, dried cannabis material, and a number of plants – three plants which were about 200cm in height and another bucket with seedlings.

[6] You freely admitted, eventually, that this was all for your personal consumption. Initially you did not want, as was your right, to make a statement to the Police. But you ultimately did, saying that it was all yours and that you had planted it.

[7] There is no information about what you did with the money or how much you made from your drug dealing and the statement of facts I have says that you denied supplying cannabis to anyone at that time. Curiously you have also continued to be unforthcoming with information. The Probation Service tell me that you would only disclose minimal information relating to that part of your offending.

[8] I have been helped by that Probation report and also information that came with it, namely references from within the community. You are described as being a single person of 32 years of age.

[9] The references that have been provided and your counsel have told me that you had a very hard time growing up within your family dynamic but that you have managed to overcome those difficulties and contribute both personally to your family, particularly your grandmother, and the wider community. You are described as generous, responsible and caring. You have got a support network amongst your mates.

[10] I suspect the most important person in your life has been your grandmother. But she seems to be a very realistic woman.

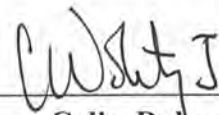
[11] The Probation Service tells me and I quote, “she concludes that she would support whatever recommendation the Court decides to knock some sense into her grandson’s head that cannabis use should not be tolerated”. She is a pretty forthright woman. And in a sense that is one of things that the Court has to take into account, making you accountable in some way as well as denouncing your conduct and deterring others.

[12] The Crown has also given me submissions in relation to where you fit in the hierarchy of drug offending. And I think it is clear and I agree with them that you are in that category 2 of the *Marsters*<sup>1</sup> case where smallish time commercial street dealing has a starting point in the range of 2 to 6 years imprisonment. I think that in the absence of any other aggravating feature that the lowest end of that of 2 years is appropriate. You were in it for profit but not much. It was a relatively unsophisticated operation.

[13] The Probation Service recognise the issue, your counsel recognises the issue and that starting point of imprisonment is inevitable. You will get a credit from that for the only real mitigating factor and that is your ultimate guilty plea, and that will be one-third of the 2 year starting point.

[14] You are therefore sentenced to 16 months imprisonment from now.

[15] Thank you.



Colin Doherty, J

---

<sup>1</sup> [2012] CKHC 24: Cr 313-314/2011 (20 July 2012),