

**IN THE HIGH COURT OF THE COOK ISLANDS
HELD AT RAROTONGA AND AITUTAKI (via ZOOM)
(CRIMINAL DIVISION)**

**CR NO's AIT 2/2022, 3/2022
4/2022, 5/2022
6/2022, 7/2022
8/2022, 9/2022**

POLICE

v

**JEREMIAH LOW
JOHN JESSIE ROPATI TUIMAVAVE
NGAMETUA GRACE KRISTIAN & PAREANGA KIRIKAVA
QUINTON ALAN SCHOFIELD
SAMUEL MARSTERS IOANE
UTARIKI BISHOP
RIMAMOTU PIRIANGAOA PAORA
GRAY RONALD PITOMAKI TURIA**

Date of Zoom hearing: 14 January 2022

Appearances: Ms A Maxwell-Scott and Ms J Crawford for Police
Mr T Nicholas for defendants Paora & Ioane
Ms M Tairea for all other defendants

Oral Judgment: 14 January 2022

ORAL JUDGMENT (BAIL) OF HUGH WILLIAMS, CJ

[1:56:24]

[1] This judgment deals with a recently launched operation known to the Police as Operation Tavake. It involves eight residents of Aitutaki who are charged under Aitutaki 2/2022 through to 9/2022. The names of all eight defendants will be included in the minute.

[2] All but Mr Paora are charged with selling or offering to sell cannabis over varying periods, from early 2020 through to the present time, and the current hearing results from a police operation when a number of officers travelled to Aitutaki on 13 January 2022 to execute various search warrants. Mr Paora is charged with cultivating cannabis.

[3] As far as the facts of the matter are concerned, in the preliminary summary of facts – and that must be regarded as a very preliminary document at this stage of the matter – from the materials that were obtained by the Police on execution of the search warrants, and in relation to a subsequent investigation of Mr Paora’s situation, it is clear that a substantial amount of cannabis material, plants and seeds were uplifted.

[4] However it is important to note that as far as Mr Schofield and Mr Turia are concerned, no cannabis material was uplifted on execution of the search warrants with the charges against them – as against most if not all of the others – stemming from analysis of a large number of text messages. Any publicity given to this matter should therefore be careful to avoid any suggestion that Messrs Schofield and Turia were discovered to be in possession of cannabis material.

[5] The preliminary statement of facts also names two other persons who were the subject of execution of search warrants but on whose premises no cannabis material was discovered. They have not, at least as yet, been charged and any publicity given to this material, to Operation Tavake, should make clear that those persons’ names should not be included.

[6] To the preliminary statement of facts is annexed a photograph of what is said to be a firearm. Once again, the discovery of that weapon is not, as yet, the subject of a charge and caution should be exercised in any publication concerning the discovery of that weapon.

[7] All of that said, at this stage Operation Tavake is in a very preliminary stage to the point where, prior to this hearing, most of the defendants had not even seen the informations issued against them. They were provided during the hearing.

[8] It is agreed that disclosure needs to be undertaken by the prosecution and that disclosure may proceed in stages because, of course, the operation is still very much ongoing; there is a considerable amount of Police work still to be undertaken, including the interviewing of a number of witnesses.

[9] So in that regard all the defendants should be remanded until 28 January 2022 when there is to be a further criminal callover. Because of the number of defendants and the necessity to extend the Zoom hearing to Aitutaki, it is preferable that the time for the present

defendants' cases to be reconsidered should be at 12 noon (CIT) to separate it out from the other matters needing to be dealt with at the callover.

[10] Obviously in these circumstances the question of bail arises. Ms Maxwell-Scott for the Police advises that though no opposition to bail is raised in respect of the defendants Schofield, Turia and Bishop, the Police do oppose bail in respect of the other five defendants.

[11] Submissions have been made in respect of bail by Ms Tairea for her clients and by Mr Nicholas who was asked to appear at short notice in respect of Messrs Paora and Ioane.

[12] Should bail be granted the Police propose a number of conditions. Those conditions need to be modified from the bail conditions normally imposed to take account of the fact that all the defendants live in Aitutaki, a small, close-knit community.

[13] Despite the Police opposition, and despite the results of the execution of the search warrants and the quantity of cannabis material said to have been uplifted, bail will be granted to all seven of the defendants, other than Mr Paora, but only to the criminal callover. Depending on the then state of the investigation and the charges then issued, bail will need to be reconsidered and no bailed defendant should assume bail will be continued beyond 28 January 2022.

[14] The bail is to be on a number of conditions:

- a) That they surrender any passport they may hold, do not apply for another and do not leave the Cook Islands without the permission of the High Court;
- b) That they do not possess, use or consume controlled drugs;
- c) That they each report to the Aitutaki Police Station weekly on Fridays in accordance with a staggered schedule: the times of reporting to be advised by the Crown as soon as possible after this hearing and included in the bail bond;
- d) There is a difficulty in respect of the fourth condition, a non-association condition, given the size of the Aitutaki community and its close-knit nature.

But there will be a condition, even if, in practical terms, it serves as no more than a warning to the defendants, that each of them is not to associate with their co-defendants in any way and are not to contact any of their co-defendants by any means, directly or indirectly, personally or by electronic means. What that condition is intended to ensure is that the defendants do not have anything whatever to do with any of the other defendants, either personally or through some other avenue, such as members of their family or the like. That prohibition extends not just to personal contact but to contact by any electronic means, directly or indirectly.

[15] As far as Mr Paora is concerned, the amount of cannabis material obtained from the search of his premises and the limited admissions he appears to have given according to the preliminary statement of facts indicate that there is no basis on which he should be granted bail and accordingly Mr Paora's remand to 28 January is in custody.

[16] There will be leave to any defendant – apart from Mr Paora – to apply for a variation of any of the bail conditions should they prove to be unworkable. Mr Paora can reapply for bail should his circumstances justify that course.

[17] There will be no order for suppression of the name of any of the defendants.

A handwritten signature in black ink, appearing to read 'H Williams', written in a cursive style. The signature is positioned above a horizontal line.

Hugh Williams, CJ