

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

**CR NO's 487-491/21  
523/22  
525/22  
526/22**

**R**

**v**

**TUPEHORO POKIPOKI**

**Counsel:** Ms M Pittman for the Crown  
Mr M Short for the Defendant

**Sentence:** 10 August 2023

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

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[10:51:06]

[1] Ms Pokipoki is before the Court for sentence on four charges of theft as a servant under ss 242 and 249(b)(2) of the Crimes Act 1969. Each of these offences carries a maximum penalty of 5 years imprisonment. The total amount of the charges to which the defendant has this morning entered guilty pleas is \$46,570.00.

**Background facts**

[2] The summary of facts has been read in Court this morning. I shall briefly traverse them.

[3] On 1 October 2021 the Police received a complaint from the Bank of the Cook Islands of theft of money from the bank account of a particular customer, Mr Narayan. Investigations were then undertaken which revealed that the defendant, while employed by the Bank of the Cook Islands as a bank teller at Rakahanga, had stolen sums of money between 21 March 2020

and 29 September 2021 from four customers, totalling the amount I have already specified, \$46,570.

[4] The defendant admitted this criminality and stated that she had forged the customers' signatures on the withdrawal slips, collected the money, and used it for her own personal use. The Bank has reimbursed its four customers with the total amount stolen from them by Ms Pokipoki. No reparation has been paid.

### **Aggravating and Mitigating Features**

[5] The Crown, in comprehensive submissions, refers to aggravating features of the offending: planning and pre-meditation, ongoing and prolonged offending over a period of many months, the significant breach of trust. Ms Pokipoki held a position of significant and inherent trust in her employment with the bank; this gave her access to personal financial information of the bank's customers and the offending was a serious abuse of that trust. The extent of the loss and harm, the sum of \$46,570 stolen from the customers, but in addition, the Bank of the Cook Islands has had to spend something in the region of \$9,000 to investigate the offending and to bring these charges before the Court.

[6] There are no mitigating features of the offending.

[7] As to mitigating features of the defendant, the offending was promptly acknowledged. Guilty pleas were entered to earlier charges. These have been withdrawn this morning. Amended charges have been filed by the Crown, to which guilty pleas have been entered.

[8] This is the defendant's first appearance in this Court. Five references filed this morning testify to her previous good character. There is no doubt that she was held in the community with respect and affection. I select from those references descriptions of disappointment, embarrassment and shame for the offending for which Ms Pokipoki must be sentenced this morning.

## Submissions

[9] Mr Short, in his submissions has emphasised those mitigating factors and has sought the Court's leniency in the sentencing while acknowledging that for this type of offending a custodial sentence is inevitable. That concession is properly made. This is serious offending which inevitably will be met with a custodial sentence.

[10] I accept the Crown's submission that an appropriate starting point is in the region of 3 to 3½ years imprisonment. The Crown referred to a number of relevant authorities, perhaps the most helpful being that of the *Police v Teiri-Karati*<sup>1</sup> where the end sentence from a starting point of 3½ years, was 2 years and 2 months imprisonment. Factual situations vary in all cases. The amount there involved was \$60,000 and reparation of half that amount had been paid, \$30,000. There was the aggravating factor of a previous dishonesty offence.

## Sentence

[11] I take a starting point of 3½ years imprisonment. A discount of one-third for the early guilty plea is available. I recognise also as appropriate for a discount, that Ms Pokipoki comes before this Court as a first offender with previous good character references.

[12] The sentence I impose upon you is 2 years imprisonment.

[13] There will be a reparation order for the sum of \$46,570.

[14] There will be a condition that you are not to leave the Cook Islands without the approval of the Court.

[15] You may stand down.

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<sup>1</sup> *Police v Teiri-Karaiti* [2020] CKHC 12.

*Potter, J.*

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**Judith Potter, J**