

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

MISC. NO. 1950/24

R

v

OKIRUA MANUELA

Hearing: 3 December 2024

Appearance: Mr R Tanu, Probation Officer

Decision 3 December 2024

DECISION OF GRICE J

(Variation of probation conditions – section 9 Criminal Justice Act)

[1] On the 27 March 2024, Mr Manuela was sentenced on a charge of stealing lemons from his father-in-law's lemon plantation, and two contempt of Court charges for failing to report to the Police Station (it appears) when on bail pending sentence.

[2] Mr Manuela was sentenced to 12 months' probation, with the first four months to be served on community service. A further charge relating to breach of his community service order resulted in a sentence on 30 May 2024, of a further term of two months' community service and \$50 Court costs.

[3] The special conditions attached to the probation order included to attend workshops or counselling as directed by Probation Services, and not to leave the Cook Islands without approval of the High Court. On the contempt charges he was ordered to pay a total of \$134. He was also ordered to pay Court costs of \$150, being \$50 on each of the charges.

[4] Mr Manuela has now received an offer of employment in New Zealand. One of the terms of probation is that he remains in the Cook Islands.

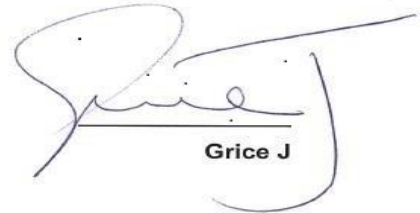
[5] I heard evidence from both Mr Manuela and Mr Tangimataiti, who has facilitated the offer of employment at the Invercargill freezing works in New Zealand, and is accommodating Mr Manuela should this application be successful. Mr Manuela's mother was also present in Court and, according to the application, is financing the airfares. The plane to New Zealand leaves at 2.55 pm today; therefore, they propose going straight to the airport from this Court sitting if the application is granted.

[6] The Probation Service seeks a variation of the probation conditions under section 9 of the Criminal Justice Act. In view of the confirmation from Mr Manuela and Mr Tangimataiti as to the arrangements for employment, as well as the support by the Probation Service, it appears appropriate that the application be granted and the condition requiring residence in the Cook Islands be varied to suspend that requirement while Mr Manuela is in New Zealand.

[7] I am satisfied that the variation of the condition is consistent with and supports the principles of sentencing. In particular, that of the offender's reintegration into the community and rehabilitation. Mr Manuela has already served nine months of the probation period, and Mr Tangimataiti is supportive of Mr Manuela being given a second opportunity to establish himself.

[8] In view of the fact that it appears that the incentive to steal the lemons was to sell them and so obtain some money, it appears appropriate that Mr Manuela, who is unemployed in the Cook Islands, be given the opportunity for employment. Accordingly, the application is granted, and the requirement to reside in the Cook Islands is varied to suspend that condition for the period that Mr Manuela is in New Zealand.

[9] If Mr Manuela returns, he must report to the Probation Service and finish out the term of his probation (if any), that remains unexpired as at the time of his return. In all other respects the sentences remain extant.



Grice J