

IN THE SUPREME COURT OF TONGA
CRIMINAL JURISDICTION
NUKU'ALOFA REGISTRY

CR 120 OF 2011

REX

-v-

MELEANE TONGAI

BEFORE THE HON. JUSTICE SHUSTER

HAVING HEARD - Crown Counsel, Defence Counsel, and from the defendant in person.

The defendant appears for sentencing - having plead guilty on arraignment on the 27th May 2011; to an indictment, alleging four counts of indecent assault on a boy under the age of 12 years and accepted the prosecutions version of facts.

On arraignment on the 27th May 2011 the defendant was told she would be given credit for her early guilty plea and, the case was adjourned for the preparation of a PSR and, the defendant was remanded on bail with a condition to co-operate with the officer making the report, and to keep away from the victim – it should be noted the defendant is a first time offender.

On 21st July 2011 the defendant appeared for sentencing. Having considered all the facts of the case, including the contents of the PSR and considering the fact that the defendant pleaded guilty accepting the advice of her Counsel, - and, the fact the defendant fully co-operated with the police and with this court – and having heard from counsel and the defendant in person and considering the content of the PSR and victim impact report -

The defendant is sentenced as follows:-

Count 1 – Eighteen months imprisonment - suspended for three years from today conditional upon her keeping the peace and being of good behavior to everyone and not committing any further offences during the operational period of this suspended sentence.

Count 2 – Eighteen months imprisonment - suspended for three years from today conditional upon her keeping the peace and being of good behavior to everyone and not committing any further offences during the operational period of this suspended sentence.

Count 3 – Eighteen months imprisonment - suspended for three years from today conditional upon her keeping the peace and being of good behavior to everyone and not committing any further offences during the operational period of this suspended sentence.

Count 4 – Fined \$500.00 and she is further ordered to enroll in, and complete the Salvation Army Drugs and Alcohol Awareness Course and life skills course. The defendant is ordered to keep away from the victim in this case until the victim reaches the age of 18 years which the defendant agreed to do - in open court

In considering whether I could suspend the eighteen months prison sentence which I have just passed and, I have decided to suspend the whole sentence for a period of three years- because of the defendants early guilty plea, and the fact that she cooperated with the police and has apologized to the victim and they have each accepted his apology she is a first time offender and of previous good character.

The defendant via her counsel indicated she was able to pay her \$500.00 fine immediately, so she was given a formal 24 hours to pay her fine in full in default of payment of the \$500 she will serve 4 months.

I certify that I have checked the birth certificate of the victim in this case and I certify that he was under the age of 12 years at the time of the commission of these offences.

I also certify that I have warned the defendant about committing any further offences – of failing to pay her fine, and the consequences of failing to complete the Salvation Army Drugs and Alcohol Awareness Course and the Life Skills course. She indicated she fully understood.

This is to be a deterrent sentence, applying the principles enunciated in **Crown -v- Cunningham**

DATED 21st July 2011


JUDGE 