

**IN THE SUPREME COURT OF TONGA**

**CRIMINAL JURISDICTION**

**NUKU'ALOFA REGISTRY**

**FILE CR 256 OF 2010**

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**REX**

**-V-**

**PENISIMANI INIA**

**BEFORE THE HON. JUSTICE SHUSTER**

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

**The defendant appears for sentencing** - having pleaded guilty on re-arraignment to an indictment, alleging **THREE** counts of HSB and **THREE** counts of theft of property, valued at over **24,400.00TOP**

According to the prosecution these offences were committed by the defendant in a continuing course of conduct, breaking and entering homes when people were asleep in their own homes at night **WHILST ON THE RUN FROM PRISON** and no property has been recovered during the police investigations.

On his re-arraignment on 29<sup>th</sup> July 2011 the defendant was told he would be given some credit for his change of pleas to guilty pleas, and, the case was adjourned for the preparation of a PSR and, the defendant was remanded in custody to 30<sup>th</sup> September 2011 for sentencing as he is a serving prisoner and the court was awaiting other files from the lower court..

It should be noted that the defendant is **NOT** a first time offender in fact the defendant has four previous convictions for similar offences including escaping lawful custody, and the police record shows that on 23<sup>rd</sup> October 2008 the defendant was sentenced to four years in prison for similar offences. He keeps escaping from prison committing further like offences.

On 30<sup>th</sup> September 2011 the defendant appeared from custody for sentencing having been held on remand in prison.

Having considered all the facts of the case, including the contents of the PSR and considering the fact that the defendant pleaded guilty on the 29<sup>th</sup> July 2011 to all the offences and, considering the the fact the defendant co-operated with the police and with this court – and having heard from the defendant and noting that he is NOT first time offender.

I told the defendant that these were particularly serious cases in view of the pattern of offending, the frequency of offending, and the high volume of property stolen with very little property recovered. These cases required the imposition of a deterrent sentence and the court was thinking of imposing an EIGHT year sentence for each HSB and a further TWO years for each theft charge sentences to run concurrently to each other - as the public deserved protection from this particular defendant more so when he was an escaped prisoner.

**ACCORDINGLY**

**The defendant is sentenced as follows:-**

**Count 1** – The defendant is sentenced to EIGHT years in prison

**Count 2** – The defendant is sentenced to TWO years in prison

**Count 3** – The defendant is sentenced to EIGHT years in prison

**Count 4** – The defendant is sentenced to TWO years in prison

**Count 5** – The defendant is sentenced to EIGHT years in prison

**Count 6** – The defendant is sentenced to TWO years in prison

**ALL SENTENCES - ARE TO BE SERVED CONCURRENTLY.**

<p><b>MAKING A TOTAL OF EIGHT YEARS IMPRISONMENT IN TOTAL TO START FROM 29<sup>TH</sup> JULY 2011</b></p>
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This is to be a deterrent sentence, applying the principles enunciated in  
**Crown –v- Cunningham**

**NB A copy of this order is to be served on the Prison Service**

**DATED 16<sup>TH</sup> SEPTEMBER 2011**

**J U D G E**