

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

X

**CR NO'S 629/11
635/11**

CROWN

v

MARK MAREKO RINGIA

Hearing: 16 December 2011
Counsel: T Manavaroa for the Crown
M Tairea for the Accused
Sentence: 16 December 2011

NOTES OF THE HON JUSTICE GRICE ON SENTENCING

[1] Mr Ringia, you appear for sentencing having pleaded guilty to and been convicted of two charges. First, possession of cannabis and the charge is that you did have in your possession a Class C controlled drug, namely dried cannabis and seeds on 7 October 2011 at Aorangi, and that is a charge under s 7(1)(a) and (2)(b) of the Narcotics and Misuse of Drugs Act with a maximum term of imprisonment of two years, or \$5000. The second charge is that you did have in your possession on the same date, a utensil, namely a bong, used in the smoking of marijuana. That is an offence under s 13(1)(a) and (2) of the Narcotics and Misuse of Drugs Act, with a maximum period of five years imprisonment and \$5000. They are serious offences.

[2] The Crown has read out the facts, so I will not go over them in detail again. In summary on 7 October the police executed a search warrant at the house that you live at and they located a utensil for the use of smoking cannabis, 21 cannabis seeds and one small plastic bag containing dried cannabis. When questioned you admitted to being the owner of the items and you said that the cannabis and seeds were yours. In relation to the utensil, the bong, you said you made it yourself about two weeks ago and use it to smoke cannabis when you feel like it. You were unable to describe how to make and use it.

[3] The Crown has said that I must take into account the sentencing principles of deterrence, accountability for the harm done, protection of the community and denunciation of the offending conduct.

[4] The Crown also took me to the case of *Tina Upu* CRN248/11, decision of Justice Hugh Williams who indicated that the possession of charges cannabis in the past has resulted in relatively lenient sentences, but it is clear that there is increasing concern in the community about these offences and the responsible position of the Court to take is to reflect those concerns.

[5] The Judge in that case suggested that a starting point would be approximately one month imprisonment for 100 grams of cannabis. In this case the Crown advised me that the amount involved would have been well under 100 grams. So, for this particular offence, while imprisonment would be the first port of call for the cannabis possession the amount involved means that the starting point is not a term of imprisonment in this case.

[6] The Crown suggests in this case a hefty fine of approximately \$750 with a 12 month period of supervision, with the first six months being served on community service with special conditions, and they list those conditions.

[7] Your counsel, Ms Tairea, has submitted on your behalf that you had a problematic upbringing, you witnessed violence in the family and that led to your doing some things that perhaps you might not have done had those early days not been so difficult. She said you are a good lad, but easily influenced by friends. She

produced a number of references, including that from Tane and Maria Mussell who said they have known you for over 18 years and you have lived with them and they consider you a very trusting and honest person.

[8] References from TVMusic Cook Islands, from Mr Wichman, the team leader, who says he has known you for 20 years as a close relative, and that you are well behaved, but “Sometimes you drop everything and change without warning due to outside influences or problems that are not related to our activities.” And he confirms you play in the E-Matike Cultural Group as a drummer, dancer, singer and guitarist.

[9] I have a further reference from the Rotaianga Men’s Support Centre, and I understand that the manager, Bob Kimiangtau was here until recently, and has had to leave, to support you. He says that there are strong indications that you genuinely want to help yourself, you have attended three counselling sessions to date, and you have now recognised that this is the ideal support to get your life back on track. There is a plan in place, a support plan for you to help you with that and the centre is confident that they will be able to complete the programme within 12 to 18 months providing you remain focused to do this.

[10] Your counsel also pointed out that you perform regularly with musicians groups, you have a very supportive mother and aunty, who are present today in the back of the Court, and have had to be waiting all day and coming backwards forwards, that shows a determination to support you. That you are a passionate and very good musician.

[11] You have pleaded guilty to this charge. You have been co-operative with the police. They are both significant factors that I take into account.

[12] You have previous offending but it is not drug related. Nevertheless, this is not your first offence.

[13] In all the circumstances I consider that probation is an appropriate sentence. In the circumstances a fine is appropriate. I think it would be appropriate for a substantial fine, given you are earning money at \$250 per week.

[14] I propose imposing a fine and a period of probationary supervision.

[15] You are convicted and:

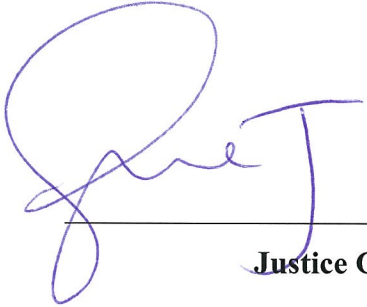
- (i) fined \$250, and
- (ii) a 12 month period of supervision, the first six months to be served on community service, with special conditions:
 - (a) The prisoner is to attend any training or workshop as directed by Probation.
 - (b) Non-association with persons indicated by Probation.
 - (c) Abstain from the purchase and consumption of liquor.
- (iii) Court costs of \$30.
- (iv) Destruction of the utensil.

[16] In relation to the second charge, possession of a Class C controlled drug, mainly dried cannabis and seeds, I impose the same probation for 12 months, with the first six on community service, with the special conditions (a) to (c) as listed above.

- (a) The prisoner is to attend any training or workshop as directed by Probation.
- (b) Non-association with persons indicated by Probation.
- (c) Abstain from the purchase and consumption of liquor.

[17] No fine.

[18] Sentences to be served concurrently. You must report to the Probation Service.



Justice Grice