

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

CR NO: 73/2014

POLICE

v

GEORGE TAORO JAMES BROWN

Date: 24 July 2014
Counsel: Ms King for the Police
Mr C Little for the Defendant

DECISION OF THE HONOURABLE MR JUSTICE COLIN DOHERTY J

[1] Mr George Brown, I gave a sentence indication to your Counsel yesterday or the day before, in relation to this charge of receiving.

[2] He made certain submissions to me and I gave him an indication that I would be minded to exercise my discretion under Section 112 of the Criminal Justice Act to discharge you provided certain things were done. Those certain things were the donations to charity of an amount representing the value of cigarettes received. I had formed the opinion at that time over the submission of the Crown, which was for a conviction for you but I formed the opinion that likely the consequences of a conviction outweighed your culpability in all respects.

[3] I took into account that you are 47 years of age. I was told that you had an unblemished record other than for an assault (common assault) where you had pleaded guilty and had received a suspended sentence. That led me to the view that that was a relatively minor nature.

[4] I took into account your standing in the Community and your recognition, that in a business sense you ought to have known better than to have taken this opportunity.

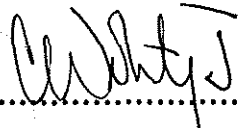
[5] What I was not made aware of at the time was that you do have another matter before the Court. That is a significant factor in the exercise of a discretion such as the one that I indicated I was intending to exercise, because it said something further to me about your lawfulness and being a good citizen. Unfortunately, Counsel did not tell me about that and I did not know until this morning. By then you had embarked upon making donations in excess of \$6,500 to each of Punanga Tauturu Incorporated who are a Women's Counselling Centre and deal with matters of domestic violence and to the Are Pa Metua Charitable Trust who deal with day to day care of the elderly, two reputable and worthy charities.

[6] I have no option now but to honour my part of the bargain because these people have now the expectation of those cheques and those monies being honoured for their purposes.

[7] So I make those comments, but I am able to exercise my discretion in your favour.

[8] You have publicly stood and atoned for your crime by entering your plea of guilty in this Court this morning; You have pleaded guilty and admitted it; and you have made those substantial donations. You have saved the state the cost of a trial and in view of all of those things and notwithstanding what was left out, I really have no option but to exercise my discretion pursuant to Section 112 and you are discharged without conviction.

[9] You may stand down.


.....
Colin Doherty J