

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

**CR NO: 21/13, 47/13, 121/13, 142/13,
194/13, 256-257/13, 355/13,
518/13, 556/13**

POLICE

v

WILFRED DAUVOIS

Date: 19 September 2014
Counsel: Mr T Manavaroa for the Police
Mr N George for the Defendant

DECISION OF THE HONOURABLE CHIEF JUSTICE TOM WESTON

[1] Wilfred Dauvois, you are here today for sentence in respect of 10 charges, to which you have pleaded guilty. Two of these are for violence; five for dishonesty; one for escaping from lawful custody; and two for contempt of Court orders. This is a woeful tale of criminality.

[2] I understand that you have a considerable history of criminality. The full details of that are not before the Court, but Mr George tells me that he has been acting for you for at least 10 years in relation to a whole raft of offending.

[3] In the normal course, the latest round of offending would see you in prison for a considerable length of time. This case is unusual, though, because the prosecution in the form of Mr Manavaroa seeks a non custodial sentence of 24 months probation supervision, with the first 12 months to be served on Community Service.

[4] I now understand that that recommendation has been made in conjunction with Mr George, who today has made forceful submissions that you should not be sent to prison. He has explained the mental health background to your situation. He has taken me through the medical reports and in particular, that of Doctor Mark Simpson dated 15 October 2013. Doctor Simpson prescribed medication for you and since that time I understand that you have kept out of trouble.

[5] Mr George's submission is that much of the offending can be explained by the mental health issues which are discussed by Doctor Simpson and, implicitly, Mr Manavaroa accepts the force of that submission. Mr George also makes the point that the last of the offending, which is the escape from lawful custody, arose in September of last year which was at the point that the medical condition appeared to be at its worst. Mr George also presented a good number of references for you that spoke of your hard work ability. You also received a reference from Marine Services Limited where you are currently employed, having worked for the last two months there. According to that reference, and one from your partner Ria Arthur, you are making a good fist of this employment.

[6] I also took the opportunity to speak with you and asked you several things. First, I asked whether you apologised for what you had done. Initially you repeated earlier denials that you did not know you had done these things, but over the course of my questioning, came to accept that you had acted to harm other people and you apologised for that, perhaps, not effusively, but you did apologise. I hope that as your mental condition continues to stabilise, you come to appreciate that you have harmed people and your actions have harmed others unnecessarily.

[7] In short I have been asked to take a chance. Despite your appalling record and, despite the fact that the latest round of offending should see you in prison, I have been asked both by the prosecution and Mr George at his most eloquent best to give you another go. I have been much troubled by this. Society needs to be protected from your actions. However, I am encouraged by the fact that since you have been on this medication, you have not offended again.

[8] I am going to accept the recommendation of the two lawyers, which is that you shall be sentenced to 24 months probation supervision, with the first 12 months to be served on Community Service.

[9] There are various conditions attached to that:

- 1) You are to abstain from the purchase and consumption of alcohol
- 2) You are not to enter licensed premises without approval of the Chief Probation Officer
- 3) You are to attend any workshop or training as directed
- 4) You are specifically directed to attend any Alcohol Anonymous Counselling.

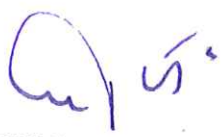
[10] I reserve to the Probation Service the right to return to the Court, should any further terms be required such as for example a curfew or the like.

[11] The Prosecution sought reparation in a sum totalling approximately \$2,000. I canvassed that with both Mr Manavaroa and Mr George. I am conscious that the victims of these crimes who seek the reparation are indeed the victims and should not be required to bear the cost of this criminality. Nevertheless, I think it is pointless to require reparation in the current circumstances, particularly where the main influencing factor in my sentencing is to achieve your rehabilitation. Therefore, I decline the order for reparation.

[12] I order Court costs of \$30.

[13] Mr Dauvois, I make it clear that if you ever come before the Court again, you can expect to go prison. There will be no further chances for you. You will go to prison. I hope it works out for you. I wish you and your partner the best of luck and I hope we never see you again.

[14] You now may stand down.



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Tom Weston CJ