

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

CR NO'S: 726/14 – 730/14

POLICE

v

MARIA MATAITI

Date: 19 March 2015

Counsel: Mr T Manavaroa for Police
Mr M Scowcroft for the Defendant

DECISION OF THE HONOURABLE MR JUSTICE HUGH WILLIAMS

[1] Maria Mataiti, at the age of 25, you come before the Court for sentence on five charges; two burglaries both at Palm Grove, a third of being unlawfully found on the premises there, and you had almost certainly gone there to commit a third burglary and two offences under the Misuse of Drugs Act possessing cannabis and possessing a utensil.

[2] The maximum sentence is of 10 years for each of the burglaries, two years for the possession of cannabis and five years for the possession of the utensil.

[3] The offences took place between 5 December 2014 and 11 December 2014 and you pleaded guilty to all the counts on 27 January 2015, effectively at the earliest possible opportunity. I am told that you are also charged with another burglary which I imagine will have been committed while on bail but I know nothing of that, so it is only the current five for which you are being sentenced.

[4] Mr Manavaroa for the Police, has read out the Statement Of Facts I do not intend to repeat that, but, on 5 December 2014 you simply opened up a unit at the Palm Grove Resort, walked in, stole \$1,325 from people's wallets and walked out. You did it again two days later on the 7 December 2014 at Unit 10 at Palm Grove where you took at least \$500 out of the tourist's wallet, possibly as much as \$700, and then, two days later again, fortunately somebody intervened before you could commit another burglary, but you were on the Palm Grove premises clearly intending to offend a third time. That witness complained to the Police. A search warrant was executed on your premises two days later and the cannabis and the bong were found.

[5] The Probation Service points out that you, unlike many who come before the Court, have had a good upbringing a good family background, with strong family links until the passing of your mother nearly a year ago. You have a seriously ill father. That notwithstanding, your only income is selling nu or chestnuts and you, as I have said, have been looking after your father. You have a son now 2 years of age and you are, as Mr Scowcroft has said, remorseful and regretful to find yourself here, particularly because of your obligations to your father and your son, but according to the Probation Service, you are not financially struggling and simply gave into temptation on this occasion to steal some extra money, money which does not appear to have been there when the Police executed the search warrant a few days later. You had obviously spent it on something.

[6] The features that make this offending worse, as Mr Manavaroa points out, are the loss to the victims, the public image of the Cook Islands, stealing from tourist is all too prevalent an offence here, and the prevalence of burglary generally.

[7] Mr Manavaroa also adds that the circumstances of your offending were effectively a home invasion. You burgled the premises of the owners of Palm Grove Resort and you burgled a unit where tourists were staying. It was planned offending: you knew the premises were vacant and went in there and simply helped yourself. Of course the impact on tourism if this sort of behaviour becomes too widely known and too prevalent is an aggravating feature.

[8] Overall the Crown suggests, in accordance with what is now becoming an established pattern here, that you be sentenced to a short term of imprisonment with Probation to follow.

[9] Mr Scowcroft for Mr Short pointed to the fact that you said the cannabis and the utensil were not yours but you have accepted responsibility for them. He makes the point that you are still breastfeeding your son and were you to go to jail, there would obviously be difficulties in that regard. He says that you lack money to buy the necessities for looking after your son and it maybe that you spent your ill-gotten gains on buying things for him. He points to your early pleas and the fact this is the first time you have been before a Court. You apologised. He says you are at the crossroads in your life and produces some statements supporting your position from the three of your friends.

[10] In sentencing you I need to take into account the seriousness of the offence and the fact that burglary in this country is an increasing problem. It is now an established pattern that people who burgle go to jail for varying periods, or at least that is the starting point. You need to be accountable for the harm you have done to the owners and guests at Palm Grove and to the Cook Islands community generally and to tourists who come here and support the economy of these islands. I need to promote a sense of responsibility in you and of course denounce your conduct and impose a sentence which should deter others from becoming involved in burglaries.

[11] One needs to start with considering a short term of imprisonment for you, longer or shorter depending on the circumstances. The circumstances that make your offending worse are that this was in the nature of a home invasion, the damage to the public esteem of the Cook Islands, the damage to the tourist industry, the loss to the victims and the prevalence of burglary here.

[12] One of the testimonials produced says "Maria is an honest girl." That is plainly untrue. You are not an honest girl. Here you are committing two burglaries and other offences within a few days, at considerable gain to yourself with nothing to show when the Police executed the search warrant on your premises.

[13] You are entitled to credit for the fact that you have never been in a Court before. You are entitled to a significant credit for the fact that you accepted responsibility and pleaded guilty at a very early stage and you are entitled to some credit for your remorse, your regret and your family circumstances, but all of those in my view do not mean that you should not go to jail. Undoubtedly, a jail term will cause considerable inconvenience to your father but

you should have thought of that before you offended. It will also create problems with breastfeeding your son, but that is a matter for the jail authorities to work out.

[14] In the circumstances on the burglaries - and these are terms of imprisonment which are significantly less than initially I had in mind because of the impact on your family - you will go to jail for 4 months.

[15] On the possession of cannabis and the possession of a utensil you will go to jail for 3 months but that will be concurrent, so the total jail term will be 4 months.

[16] On your release you will be on Probation for 12 months with a condition that you undertake whatever education or training courses that Probation Service requires.

[17] You may stand down.

A handwritten signature in black ink, appearing to read 'Hugh Williams J', written in a cursive style. The signature is positioned above a horizontal line.

Hugh Williams J