

IN THE HIGH COURT OF THE COOK ISLANDS CR NO: 19/2015
HELD AT RAROTONGA
(CRIMINAL DIVISION)

POLICE

v

GEORGE MAOATE

Date: 11 March 2016
Counsel: Mr F Tararo for the Police
 Defendant in person

**SENTENCING NOTES OF THE HONOURABLE JUSTICE DAME JUDITH
POTTER**

[1] Mr Maoate, you are before the Court for sentence on a charge of burglary under s.263 of the Crimes Act 1969. The maximum penalty for this offence is 10 years imprisonment.

[2] On Saturday the 13th September 2014 Mr Maoate, you and an associate planned and executed a burglary at Raro Cars. You were the look out while your associate broke into the Raro Cars office and took electronic items. Your associate then returned to Raro Cars, stole a blue rental car and the commercial safe from the office. You took the safe to your home in Titikaveka and the next morning you opened that safe. The two of you took approximately \$9000.00 each from the safe. Then the next day you rented a car from Polynesian Car Hire and with your co-offender, you disposed of the safe in the stream at Avana.

[3] On the 21st October 2014 a search warrant was executed at your house and a portable hard drive belonging to Raro Cars was located. The total value of the items stolen from Raro

Cars was \$31,461.60c. Your half share of that is \$15,730.80c. Your associate is currently not in the Cook Islands but I am advised that a warrant for his arrest is outstanding.

[4] In sentencing you, Mr Maoate, the Court needs to denounce your conduct, to deter you and others from offending in a like manner, to promote in you a sense of responsibility in relation to your conduct, and to provide if possible, reparation for the harm you have done.

[5] There is considerable Court authority in relation to sentencing for burglary. There are three categories. The first time burglar, into which you fortunately fall. Recidivist burglars and spree burglars. Although prison is usually a response to serious burglaries such as this was, for first time burglars, the Court has a discretion to impose a lesser sentence.

[6] In respect of your offending, there were aggravating factors. There was pre-meditation and planning. You appear to have been motivated by some sense of revenge and I was pleased to hear from you in Court today that with the benefit of hindsight, you recognise that that was misplaced motivation. You entered the premises of Raro Cars twice on the same night and your burglary caused significant financial loss to Raro Cars, not to mention the intrusiveness of a burglary in the company's premises.

[7] Mitigating factors are your early guilty plea, your co-operation with the Police and the fact that you appear before the Court for the first time in relation to criminal offending.

[8] I have been provided with a helpful probation report. It notes that you reside at Titikaveka with your partner and your two children. Your partner, Ms Augustine Kopa is supportive of you. She is largely the bread winner in the family although you tell me you will commence work on Monday. Ms Kopa describes you as a fantastic father and says that you play more of a motherly role than she does as she works most of the time and you are responsible for the children. She is grateful to you for that and describes you as a caring person who is also her best friend. She says that she could not pursue the work and continuing education she is undertaking without your support and care. She says she is determined to create a better life for the family and that she needs your support to do it.

[9] I consider Mr Maoate, that you are very fortunate to have that support and I hope you will not dishonour it by ever again offending in such a way such as this or indeed in any way that will bring you anywhere near the Courts.

[10] The Crown submits that a short term of imprisonment is appropriate in all the circumstances particularly taking into account the amount of the burglary and the pre-meditation involved, but Ms Mills properly recognises your particular circumstances including that you are a first offender, that you have been co-operative and will continue to be, and that you have entered a guilty plea.

[11] I have given serious consideration to the sentence that should be imposed upon you. I have no wish to impose a sentence that will impede your future life from not crossing into the criminal world, as this offending has brought you.

[12] I impose on you a sentence of 18 months probation service with the first six months to be served in community service. There will be conditions:

- a) You are to attend any training or workshop as directed by the Probation service;
- b) You are not to leave the Cook Islands without the approval of the High Court at Rarotonga;
- c) You are to pay reparation to Raro Cars in the sum of \$15,731.00.

[13] You may stand down.

Potter, J.

Judith Potter, J