

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

**CR NO's 49/19  
190-192/18**

**POLICE**

v

**MATAINA TEREINGA MAOATE**

Hearing date: 19 September 2019

Appearances: Snr Sgt. F Tararo for Prosecution  
Mr M Short for Defendant

Sentence: 19 September 2019

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**SENTENCING NOTES OF THE HONOURABLE JUSTICE PATRICK KEANE**

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[10:37:08]

[1] Mataina Maoate, you appear for sentence of four offences. The first, theft as a servant on 7 October 2014; the remaining three fraudulent use of cheques on 12, 21 and 28 October 2017.

[2] In September 2017 your first offence came to light as a result of a fraud complaint made then. You had been employed by the ANZ Bank, for over nine years; ultimately, as an Assistant Manager Corporate.

[3] On 7 October 2014, you transferred from an account belonging to your uncle and aunt in New Zealand, \$1118.50, to the credit of a friend of yours, who had lent you \$940, to pay your telecom account.

[4] You admitted when you were spoken to, having made that transfer, without the authority of your aunt and uncle, or of the ANZ itself. Your remaining three offences,

three years later in October 2017, came to light on a complaint to the police in March 2018.

[5] In October 2017 you were employed as the Treasurer of the Ngatangia and Matavera, Rugby Union Club. You signed and presented three cheques to the BSP, to transfer sums to your own personal account, without the approval of the President.

[6] On 12 October you obtained \$1,108.20, on 21 October \$808.50, and on 28 October \$378.90, in all \$2,295.60. Once again, when spoken to, you admitted the fact of your offences.

### **Pre-sentence report**

[7] Your pre-sentence report sets out the context within which you offended. You come from a prominent Cook Island family. Your family has played a large part in the community, in a variety of organisations.

[8] That induced you to set out to impress the community; to acquire assets, and incur expenses you could not sustain. To reduce your mounting debt, you committed these offences.

[9] Your family is highly distressed and embarrassed. You were, your report says, a very capable student. You carried the high expectations of your family. You embarked on, but did not complete, a university degree. Instead your family has had to assist you, to make good your liabilities.

[10] Your report says that, when interviewed, you showed remorse. You apologised. You understood increasingly, the distress and embarrassment you have caused your family.

[11] That said, your report concludes, it is not altogether clear that you understand the consequences of your offending; and the seriousness of your offences, independently, requires a proportionate sentence.

[12] It is recommended that you be placed on 12 months' probation supervision, with the first 4 months on community service, including these conditions: (a) you pay \$1,118.50 back to your parents; and (b) you attend training or a workshop as directed.

[13] This recommendation I should add, recognises that, you have already met your liability to the Rugby Club. That does need to be made the subject of any order.

### **Submissions**

[14] The police support that recommendation essentially for the reasons given. The police emphasize however, that your four offences each involve theft from your then employer, and an abuse of trust. The police also submit that you acted in a pre-meditated way.

[15] Those two aggravating factors, police submit, while offset by your guilty plea, the fact that these offences are your first and that the money has been repaid, and that you have been cooperative and apologetic, still warrant the sentence recommended.

[16] Your counsel Mr Short, says that you accept the recommendation, and the reasons why. He has explained why your family is prominent in the community, what that has called for and how that has translated to the pressure you felt to spend excessively.

[17] He has emphasized also, that you have been making a concerted attempt to repay debts and accept that you must repay your parents.

### **Conclusion**

[18] As your report says and the police acknowledge, you appear, Ms Maoate, for the first time. But that you appear for these four dishonest offences has to be of concern.

[19] Your first offence, when you were an Assistant Manager Corporate at ANZ, has to be set against your offences three years later, when you were the Treasurer of

the Rugby Club. The fact that you offended across that three year span is troubling in itself. These were not impulsive offences.

[20] If the first had stood alone, perhaps, it could be understood that way. Three more offence, three years later, suggests that, to answer the pressure your lifestyle and debt imposed, you took advantage your positions of trust, in a pre-meditated way.

[21] At the same time, you have much that is promising to hold on to. You have begun to face your debts. You have begun to understand what effect your offending had on your family.

[22] You need support, in this difficult time in your life and theirs. The sentence recommended balances deterrence and holding you accountable, and enabling you to reintegrate with your family and rehabilitate.

[23] You will be sentenced to, probation supervision for 12 months, with the first four months on community service, subject to the conditions I have already set out; The first of which is that you make good to your family.



**Patrick Keane, J**