

POLICE

v

NGAMETUA GRACE KRISTIAN PAREANGA KIRIKAVA

Date: 30 November 2020

Appearances: Ms L William for the Crown
Mr N Kirikava as the defendant (via Zoom from the Court in Aitutaki)

Sentence: 30 November 2020

SENTENCING NOTES OF WOODHOUSE J

[9:51:17]

[1] Mr Kirikava, there is no question you are not going to go to jail, so do not worry about that, but I need to explain it because, as I think you clearly understand, you should not have been driving as you were, pushing your nephew, because it was certainly careless and there was some danger in it because of the power of a motorcycle compared with a bicycle. So I just have to explain what happened. You are for sentence on a charge of careless use of a motorcycle causing injury to your nine year old nephew.

[2] And I just need to summarise the facts Mr Kirikava. You were travelling on a motorcycle at about 10-15 km an hour. Your nephew was on a bicycle being pushed along by you and obviously he agreed that this should happen. But you are much older than him and you should not have done it. The bicycle hit a pothole. Your nephew fell and he broke two bones in his arm.

[3] I am satisfied that the appropriate sentence is to convict you, order that you pay \$50 Court costs, and otherwise discharge you subject to any question of compulsory disqualification which I will come back to.

[4] The reasons for my decision are as follows.

[5] As I have said, you should not have pushed your nephew along, but this was a low level of carelessness or thoughtlessness. You were moving at a slow speed, and I expect in fact that your nephew, left to himself, could have cycled along at about that speed if he wanted to, although not for very far.

[6] Secondly, the fractures were not serious.

[7] Next, and it is reasonably important, you are still really quite young at 21 years and, more importantly you have no previous convictions of any sort. You have been in a stable and supportive de facto relationship for three years and you have a two year old daughter. Your partner describes you as a caring partner and a good father. Your nephew, your nephew's grandmother is your nephew's primary caregiver. She expresses substantial support for you. She says you are a good and hardworking man who cares for everyone. She asks for leniency.

[8] You pleaded guilty when you first came to Court on 17 September. You told the Court you did not want a lawyer. In other words, you have recognised your responsibility without any argument at all.

[9] When spoken to by a police officer you admitted the facts. You did not try to say it was not your fault and you have been very apologetic.

[10] The formal sentence Mr Kirikava is as follows:

- (a) You are convicted;
- (b) You are ordered to pay costs of \$50; and
- (c) You are otherwise discharged.

[11] So there is no further penalty.

[12] There is no question of compulsory disqualification from driving and I do not intend to impose an order to that effect.

[13] So, Mr Kirikava, that is it. You have got to pay \$50 and you do have a conviction for careless driving. I just hope it never happens again.

[14] Thank you. You are now free to go.

A handwritten signature in blue ink that reads "Woodhouse J". The signature is written in a cursive style with a horizontal line above the "J".

Peter Woodhouse, J