

HELD AT RAROTONGA
(CRIMINAL DIVISION)

CR NOS: 53/06,61/06,62/06
77/06

POLICE

V

METUAMOEROA TANGATAPOTO
Defendant

Sergeant Howard for Police
Mr Hood for Defendant
Date of Sentence: 31 March 2006

SENTENCE OF NICHOLSON J

Mr Tangatapoto, you have pleaded guilty to one offence of unlawfully taking a motor cycle, two offences of burglary and one of willful damage. The offences and their facts are that between the 6th and 7th of December last year you unlawfully took a Honda motorcycle from Nikao. When the owner of the motor cycle found that it had been taken without authority from her garage, the Police made enquiries and a search warrant executed at your sister's house led to the motor cycle being found there. You admitted to the Police that at about 11 o'clock on the Monday night you'd been walking home towards Nikao, you were resting because it was raining, you saw the motor cycle parked inside the garage next door, that it had a key in it and the temptation was too much and you took it. You later took the side mirrors off, the number plate, the basket holder, some stickers and a passenger foot rest and it was found in that condition by the Police. Restitution of \$979.95 is sought for the damage caused to the motor cycle.

The first burglary charge is that between the 11th and 12th of December last year, you broke and entered a unit of the Palm Groves at Vaimaanga, Titikaveka, with intent to commit a crime. The facts were that the guests in that unit had left to come into town for dinner, when they got back they found that a wallet was missing containing cash.

You were interviewed in February and you admitted being responsible for the burglary. You said that you were with your girlfriend on a motor cycle, that you broke into one of the units by removing the louvre blades, you found that the safe door in the unit was slightly open, there was an envelope in it containing money and that you took that, also a camera but you were told by your girlfriend when you showed it to her to return it and you did. You said that the envelope you took had about \$200 in American currency and \$80 New Zealand money. You said that you chucked away the bag with the US money and kept the New Zealand money for yourself.

The second burglary offence is that between the 21st and 22nd of January you broke into a home of Mr and Mrs Wong at Vaimaanga with intent to commit a crime and you took some articles and then damaged them and that is the substance of the willful damage charge. The facts relating to both are that at about 11.30 on the Friday night the 21st the victims were on the beach front of their dwelling having a party. When they went to bed they made certain their home was locked except unfortunately for one side door. The following morning when they awoke they found some personal items were missing. These were two mobile phones, some memory sticks and they reported the matter to the Police.

On the 31st of January you were interviewed, you denied being responsible for the break-in and you said that you'd been heading towards Titikaveka that morning with a friend; the friend stopped, told you to wait by the motor cycle

when he went in to the victim's house to see if a party was going on, he returned and said there wasn't; but he was going back to the house and went back and returned with some of the stolen items. You then said, you took some of these items for yourself. When asked by the Police who your friend was you declined to name him. You thereafter on the 1st of February damaged some of that property. You said that you had damaged it because you had got into an argument with the victim and her boyfriend. Restitution of \$1532.83 is sought.

The Probation Officer has provided two reports and the first dated the 3rd of February this year. He reports your age of 20 years. That you have had patchy employment but you have had employment terminated by failing to attend work and being dishonest. Your parents speak of you as being a hard worker. The Probation Officer points out that this is your first appearance before the Court, that you have admitted responsibility, that you are remorseful for what you did and you have apologized for what you did.

People who know you describe you as a humble and quiet person for whom these offences were totally out of character. The possible reasons for them were peer pressure and alcohol. You are co-operative with the Probation Officer and willing to pay reparation. The Probation Officer considers that the likelihood of you re-offending is low.

In the Supplementary Probation Officer's report of the 30th of March the Probation Officer recommends a 12 months community service order followed by 12 months probation supervision to commence on the same date of the supervision of the community service order and subject to conditions.

I agree that is an appropriate penalty, not imprisonment, as your lawyer Mr Hood said it was a bad month for you, a bit more than a month, December/January, but what you did was quite out of character. You are young,

you've got your future ahead of you, you have not previously offended. People speak about you positively except perhaps that you need to buckle down to keep jobs, not slack a bit.

So accordingly, you have accepted responsibility, you have pleaded guilty, so therefore I consider the appropriate sentences and I hereby sentence you to 12 months community service to be followed by 12 months probation supervision – the term of supervision is to commence on the date of the community service pursuant to sub-section ii of Section 10 of the Criminal Justice Amendment Act 1976. The following conditions are to apply:

1. That you are to abstain from the consumption and purchase of alcohol.
2. You are not to enter licensed premises without the approval of the Chief Probation Officer.
3. That you attend workshops as directed by the Probation Service and
4. You pay reparation; I fix that reparation at \$2893.28.

Undoubtedly that will take some time to pay but the Probation Service and the Courts will make some arrangement with you for payment by installments.

So that's the sentence Mr Tangatapoto, I hope that as everybody that supports you has said, this is a "one-off" as it were, that you won't offend again, that you will do your community work and over time, pay your reparation and put this all behind you. I also order property recovered be returned.


JUDGE