

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

CR NO 764/12

POLICE

v

JASON ARIOKA

Hearing: 15 March 2013
Counsel: Mr Manavaroa for the Crown
Mr Petero for the Defendant
Sentence: 15 March 2013

SENTENCING NOTES OF HUGH WILLIAMS J

[FTR 10:34:08]

[1] Jason Arioka, on the 24th of January this year you vacated the plea of not guilty originally entered concerning one charge of possessing cannabis that you faced and pleaded guilty. Not all the delay in the guilty plea was attributable to you. Some of it was as a result of discussions between your lawyer and the lawyer for the Crown.

[2] The facts were that on 19 September 2012 your bike was stopped, you and the bike were searched and that found, in your right trouser pocket was a small amount of cannabis – essentially a cannabis tinnie which you bought for \$20 – which

ultimately was weighed at 0.78 of a gram. That is a fairly standard possession of cannabis set of facts and would ordinarily result in a community based sentence.

[3] But the problem in your case is that, even as Mr Petero says, your criminal history makes for “dismal and depressing reading”. You are only 25 now. Your criminal offending began when you must have been only about 17 in 2004 and since that time some nineteen convictions have been entered against you, thirteen of which have been for burglary or other charges involving dishonesty. At least two previous charges were for possessing or using cannabis and on those you have been sentenced to probation and community service back in 2006 and 2009. There were also three convictions for disobedience to the leniency extended to you by the Court in the form of breaching Probation charges. Of the sentences that have been imposed, in other similar cases jail has been indicated.

[4] The Probation Service says that you are now unemployed and I quote them “you are trying to stop your wayward ways and concentrate on your family”. Well, your continued involvement with cannabis and your continued criminal offending does not show much sign that you have been trying to stop your wayward ways.


[5] Your partner supports you, however, and both she and the Probation Service suggest you might benefit from psychological or psychiatric counselling. It is clear from your criminal offending and the sentences that have been imposed on you that you have not learned your lesson, even with the help of the Probation Officer, your partner and your family.

[6] The Crown of course makes the point this is the third time you have been before the Court for offences of this nature. It has been said many times that cannabis offending is on the increase in the Cook Islands and Court sentences need to increase proportionately to meet that increase in drug offending, to denounce it and try and deter other persons plus yourself becoming involved. However the Crown accepts that the sentence to be imposed on you can be reduced by your early plea and your taking responsibility. But nonetheless there are many decisions now which show that the starting point for determining the sentence for people who are involved in drug offending is a term in jail.

[7] Mr Petero's helpful submissions, and his calculations, suggest that a short term in jail is appropriate given your background but that there be some psychological or other assessment.

[8] Over the years this offending will usually be met by a fine, perhaps some probation, perhaps some community service, but those sentences have to be put out of contention given your criminal history and your previous drug offending. Despite the support that you have, from your family and your partner, a short term of imprisonment is the only possible outcome. Particularly given that personal circumstances have very little part to play when it comes to drug offending.

[9] The sentence of the Court is that you be imprisoned for two months with that to be followed by 12 months probation and that whilst in prison or under the supervision of the Probation Service you undergo such psychiatric or psychological assessment and counselling as directed by the Probation or the Prison Service. Stand down.



Hugh Williams, J