

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

CR NO: 102/14, 144/14, 200-201/14

POLICE

v

DAMON TAMARIKI

Date: 23 September 2014

Counsel: Ms C King for the Police
Mr B Marshall for the Defendant

SENTENCING OF THE HONOURABLE CHIEF JUSTICE TOM WESTON

[1] Mr Tamariki, you are here today for sentence having pleaded guilty in relation to four offences: one of burglary, two of burglary as a party, and a fourth one of receiving. These offences all took place in the early part of 2014 and were part of a wider pattern of criminality of which you and others were involved.

[2] Your co-offenders, it seems, had a far more extensive involvement than you did in these criminal adventures. The Crown has referred to the history of your offending and accepts that it's not as serious as that of the accused sentenced first this morning, Mr Taru.

[3] The Court accepts that your early plea in mitigation should result in a discount. It says that the end result should be a period of imprisonment of 12 months.

[4] The previous offending mentioned was a conviction on 3 offences in October 2013 being one charge of unlawful taking and two charges of theft. It is certainly the case that for a second round of offending, such as this, you would normally expect to go to prison.

[5] Mr Marshall has made detailed and helpful submissions on your behalf. He has referred to the fact that you freely confessed to these charges when initially questioned by the

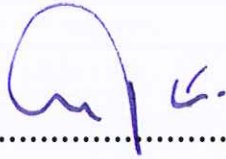
Police and have pleaded guilty to all of them. He says how your family background, which includes that you were abandoned here when you were aged 16 without parents, has contributed to the events that have taken place since then. He also has drawn my attention to the fact that you have apologised to the owners of one of the premises which were burgled and you have begun paying reparations of your own volition in relation to that. He also says that you are continuing to make reparations in relation to the charges for which you were sentenced in October 2013.

[6] Mr Marshall has referred me to the fact that you are now living with Mr Daniels and his family and that has been a significant factor in the your new attitude for the future. I then took the opportunity of discussing the current situation both with you and with Mr Daniels. Mr Daniels explained that he has taken you to live as part of his family and that he and his family are all keeping a close eye on you and helping you to adjust to a life on the straight and narrow. Mr Daniels was confident that if I were to take a chance and allow you to remain out of prison, that he would ensure that you never appear in Court again.

[7] Mr Tamariki, when you were asked that question by me, you said you had no intention ever of being here again. I do hear that said on a reasonably frequent basis but, as much as I can tell in this case, I think the sentiment is heartfelt. I do think you are trying to turn your life around. The Court in this situation is always in an invidious position. On the one hand it wants to help someone who is trying to help themselves turn their life around; on the other, it must recognise that one of its duties is to punish for criminality. I am conscious that, in the Cook Islands, burglary by young people is an epidemic and needs to be addressed strictly by the Courts.

[8] I have weighed all of these factors up. I think there is no doubt that, in the ordinary course, you would go to prison. I am making an exception in this case. I will not send you to prison. However, I will order a strict term of Probation of and community service.

[9] The defendant is to serve a period of 24 months Probation, the first 12 months of which will be served by way of community service. \$30.00 Court costs on each of the offences.



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Tom Weston CJ