

POLICE

v

DOUGLAS TAU

Date: 18 March 2016
Counsel: Ms R Koteka for Crown
Mr N George for Defendant

**SENTENCING NOTES OF THE HONOURABLE JUSTICE DAME JUDITH
POTTER**

[1] Mr Tau, you are before the Court for sentence on one charge of possession of cannabis under s 71(a) of the Narcotics and Misuse of Drugs Act 2004.

[2] As you have heard that carries a penalty of a term of imprisonment for up to 2 years or a fine not exceeding \$5,000 or both.

[3] The level of those penalties indicates that the Cook Islands Parliament views drug offending very seriously.

[4] Briefly the facts of this matter are that on the 28th of November 2014 a search warrant was executed at your home in upper Tupapa.

[5] The Police found eight pot plants containing eight young cannabis plants and a rolled paper foil in your house. Also one clear plastic container containing dried cannabis and one mustard glass container containing dried cannabis. The dried cannabis weighed 1.64 grams, a small amount as acknowledged by Counsel for the Prosecution.

[6] You admitted being the owner of that dried cannabis. You denied being the owner of the cannabis plants and utensil and I understand you were subsequently acquitted of the charge of cultivation of cannabis following a jury trial.

[7] You pleaded guilty to the charge of possession of cannabis for which I must now sentence you.

[8] I have received helpful submissions from the Crown and from Mr George your Counsel. I have also received and read a full pre-sentence report.

[9] You are clearly a person of considerable promise with a good education, a good background, good work and life skills and you have a successful business. The pre-sentence report note you are deeply remorseful and apologetic for your actions, that you acknowledge your wrong doing, that you have sought counselling for drug abuse and you have the full support of your family and friends. All those matters are very important and I take them into account.

[10] I also take into account that at the age of 36 years, as has been noted by Mr George, you come to the Court as a first offender, with what he described as an exemplary life.

[11] Mr George seeks a discharge without conviction under s 112 of the Criminal Procedure Act.

[12] I am unable to accede to that request from Counsel. Drug offending is treated very seriously in this jurisdiction and the charge to which you have pleaded guilty requires a conviction and sentence.

[13] Taking into account all the points I have noted in mitigation, the sentence will be a fine of \$400 together with 6 months Probation supervision subject to the conditions;

- a) You are to abstain from the consumption of non prescribed drugs
- b) You are to attend any counselling or workshop as directed by the Probation Service

c) You are not to leave the Cook Islands without the approval of the Court

[14] That is a lenient sentence Mr Tau. I hope it will be a strong wake-up for you because you do not need to damage your very positive life with this sort of criminal offending.

[15] You are to pay \$30 Court costs

[16] Thank you, you may stand down.

Potter, J.

Dame Judith Potter, J