

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

CR NO. 478/19

POLICE

v

TEREANU TEAVA

Date: 20 September 2019
Appearances: Snr Sgt. F Tararo for Prosecution
Mr M Short for Defendant
Sentence: 20 September 2019

SENTENCING NOTES OF THE HONOURABLE JUSTICE PATRICK KEANE

[11:40:34]

[1] Tereanu Teava, you appear for sentence for ten offences committed between 1 October 2018 and 11 August 2019: (a) two burglaries, the first on 1 October 2018, the second on 7 November 2018; (b) fraudulent use of a document on 23 April 2019 and a related escape from custody the following day; (c) refusal of a breathalyser test on 29 May 2019; and (d) six contempt breaches of your bail terms (five breaches of curfew and one of alcohol use).

[2] You have been remanded in custody, as a result of those mounting contempts, since 12 August 2019. You have been on remand, therefore, for almost five weeks; a remand to be taken into account in the sentence I impose on you.

Offences

[3] The burglary on 1 October 2018 appears to have happened in the early hours of the morning. You and two associates, who are for sentence before the Justices of the Peace on 25 September 2019, broke into the Coco Putt building to steal alcohol.

[4] You three approached from the beach. You, yourself, broke through the back door with a brick, smashing the glass. The three of you took alcohol, drinks and other items to a value of \$3,355.

[5] You went to an abandoned house and drank what you had stolen into the early hours of the morning until you fell asleep. When you were first interviewed on 31 October 2018 you denied the offence.

Second burglary

[6] On 7 November 2018, at 11am, the police were notified that you had been seen intruding in a Tupapa dwelling house. You were seen by a neighbour climbing out of the window and replacing the louvres and a mosquito screen.

[7] As you walked away from the house you were apprehended by the neighbour. When interviewed by the police, you admitted your offence. You said you entered through the front window. Your intent was to steal but you did not steal anything.

Cheque theft and use

[8] On 23 April 2019 you stole a cheque book from your grandfather. You went to a store to purchase alcohol. You filled out a cheque for \$156 and signed it. You purchased beer, items for your baby and fast food. You said you threw the other cheques away.

Escape and contempts

[9] That led to your related escape offence on 24 April 2019. After you were arrested and to be placed in a police holding cell, you escaped. You were re-apprehended within 20 minutes. I am told that you could not face the prospect of being held in a cell.

[10] On 28 May 2019 you were reported for driving carelessly. You were sighted at Tupapa. You refused to accompany the police. You smelt of alcohol. You refused to undergo a breathalyser test. You were arrested for that offence and for contempt of a related Court order.

[11] That is one of the six contempts to which I have referred. The first of those was on 25 November 2018, although you had already appeared before the Justices for a yet earlier such offence. The last was on 11 August 2019 after which you were remanded in custody.

Victim impact

[12] I do not have any victim impact statements. The cost to the restaurant you burgled, I do have. I do not have any from your family but I do have your grandfather's letter. He continues to support you but clearly finds your offending highly distressing, as does your family as a whole.

Pre-sentence report

[13] Your pre-sentence report explains that you had a troubled upbringing in the first instance. Your family was unstable in your early years in Australia, but did settle before you left at the age of seven.

[14] Once you arrived in Rarotonga you had difficulty adjusting to school in a different language. You made good friends in time, but when they left you made friends who did not help you. You left school early and by your mid-teens you were using alcohol and drugs.

[15] Your mother has said that over time you have changed from a bubbly and funny and bright kid, and she blames herself. She says that she wishes she could help you more but in recent years you have been beyond influence.

[16] Finally, your report says, you live with your maternal grandfather and your partner, or have until recently, and you have a young child. That has not been without difficulty, particularly more recently. But that hopefully will encourage you.

[17] Your report recommends, having regard to the seriousness of your two burglaries, that you be sentenced to imprisonment.

Alcohol and drug assessment

[18] An assessment of you made on 10 July 2019 says much to be found in your pre-sentence report. It adds that by age 15 your alcohol and drug use had become very marked. In all likelihood you are in fact now dependent.

[19] You are assessed to have been subject to peer influence which has been very unhelpful to you. You have often felt lost. You look to your peers for security and identity. You have some insight but you actually need support.

Submissions

[20] The police submit that for your lead offence, the burglaries, I should take a starting point up to 3 years and impose concurrent sentences of imprisonment for your other offences.

[21] As they say, dishonesty offences are rife and the offending does not simply put property at risk. It affects the sense of safety and trust and security within the community. That cannot be understated.

[22] The police rely on *Police v Maka*, where a 16 year old offender who committed a burglary and other offences like yours, but not quite as many or as serious, was sentenced to 15 months' probation and 9 months community service. They stress that Williams CJ said that burglary would ordinarily attract a short term of imprisonment as a starting point.

[23] The police recommend probation only as an adjunct to imprisonment in your case. You must, they say, be disqualified for 12 months and must make reparation of \$1,118.40.

[24] Your counsel says that you accept responsibility for your offending, as does your family. You have an issue with alcohol, set out in the assessment he commissioned, and with drugs.

[25] Unfortunately you cannot be given structured support, presently. You do have support within your family. That is a resource which, hopefully, you will learn to trust more as you grow older.

Conclusion

[26] I regard your two burglaries as your lead offences for sentence. The first, in the early hours of the morning, involved theft, did not put anybody at risk. The second, during the middle of the morning, did not involve theft, but could have involved risk. It was somebody's home.

[27] However one looks at it, two burglaries within a month suggest that you are beginning to see burglary as a first resort, and a sentence which deters you, as well as being generally deterrent, is called for. You are still only 19, but you must be made accountable.

[28] I take a starting point for those two offences of two years. You are entitled to a full credit for your plea, one-third, 8 months, and for your time on remand, close to five weeks. You are sentenced to those two offences to imprisonment for 15 months.

[29] As to your other offences, I impose concurrent prison sentences: for the fraudulent use of a document offence, 2 months; for the escape from custody, again 2 months; for refusal of a breathalyser test and for your contempts, one month each. Your effective sentence remains 15 months.

[30] You will become subject to supervision on your release under s 19 of the Criminal Justice Act. You will be disqualified as from today for 12 months on the refusal offence. You will pay reparation for the first burglary of \$1,118.40.


Patrick Keane, J