

POLICE

v

NGAMETUA GRACE KRISTIAN PAREANGA KIRIKAVA

Date: 2 December 2022

Appearance: Ms J Crawford for the Crown
Ms M Tairea for the defendant

SENTENCING NOTES OF DOHERTY J

[9:54:59]

[1] Mr Kirikava, you are now for sentence having pleaded guilty to a number of drug related offences. You were in Court I think when I sentenced someone else in relation to Operation Tavake that was carried out by Police on Aitutaki.

[2] I will not repeat the general observations I made there about the operation itself and the context of sentencing for drug offending like this again. But the comments that I made in relation to the sentencing of Mr Low in *Police v Low*¹ should be read into your sentencing as part of these remarks.

[3] You have pleaded guilty to offering to supply or supplying cannabis over a period of time. It carries a maximum of 10 years imprisonment. Also possession of cannabis seeds and possession of a cannabis utensil, both of which carry 5 years imprisonment. I intend to deal with it all together.

¹ CKHC, Ait CR 2/2022, 51-52/2022, 455/2022, 457/2022 (2 December 2022).

[4] You too were part of Operation Tavake and as a result of information received from concerned people in the local community, a search warrant was obtained to look at your phone. On analysis, a number of transactions were detected. You used, as is common in the drug trade, various codes and slang to refer to cannabis and the amounts that were required.

[5] The analysis showed that in August of last year you supplied cannabis on at least nine occasions, in September at least seven occasions, and even later. As a result of the information they got from your text messages they carried out a search and located at your home 96 cannabis seeds and various smoking utensils.

[6] You admitted that you own the seeds, they were yours, that you have grown cannabis plants to produce more seeds and that the utensils were yours to use in smoking cannabis. Notably your admission in relation to growing the plants did not lead to a cultivation charge.

[7] The Probation Service have prepared a report after talking to you and those around you and other members of the community. You were upfront and honest with them. You admitted that you had been smoking cannabis since your teens, and rationalised your supplying or selling cannabis as being to your friends and close associates.

[8] You are 23 years of age, you have got a daughter of 4. You accept what you did was wrong and you have taken responsibility for that to the Probation Service when they interviewed you but also by your guilty pleas. You are described as a good provider. Although it is interesting that the Probation Service said that your partner who is otherwise glowing in her praise of you, told the Probation Service she did warn you that you should give this up otherwise you will get caught. She was rather prophetic.

[9] Your counsel has talked about your early guilty plea, the fact that you feel real shame about this and that you are remorseful. Now that is something at odds when I look at the Probation Service who are not really sure about that. They say to me 'he was apologetic and remorseful for what he did, however the fact still remains whether he was genuinely remorseful or not'. So they are not too sure about it. I am going to give you the benefit that you are but it rolls into the fact that you have pleaded guilty at an early opportunity and remorse can be part of that.

[10] As you have heard me say to the man before you that personal circumstances count for very little if anything in drug relating offending.

[11] To your credit your counsel tells me that you have participated in a counselling session with a local provider and I have read the report. The person who assessed you, assessed your alcohol and drug use as at the abuse level. She thought that you were using that for self-medication in relation to relationship concerns and workplace stresses. The counsellor says that you have been given various strategies to help you cope with that and I hope that has been of some assistance to you, it will be in the future.

[12] I have also had the benefit of some references from people who know you. You are recognised as being a kind, understanding and open-minded person and a good worker.

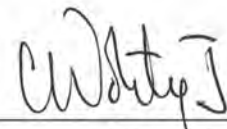
[13] The aggravating features here are that you were prepared to make money out of dealing drugs. That is it in a nutshell. That, on top of your personal use.

[14] I think I agree with the Crown that the starting point for you is in category 2, the small time commercial drug dealing category which was referred to in the *Marsters*² case.

[15] I think the appropriate starting point for you is like the man before you of 2 years imprisonment. From that you will get a credit for your plea of guilty of 8 months imprisonment.

[16] You are therefore sentenced to 16 months imprisonment from now.

[17] Thank you.



Colin Doherty, J

² [2012] CKHC 24: Cr 313-314/2011 (20 July 2012).