

IN THE HIGH COURT OF THE COOK ISLANDS

HELD AT RAROTONGA

(CRIMINAL DIVISION)

CR NO. 266/2000

POLICE

V

WESLEY KAUVAI

Mr Elikana for Police

Mr McAnally for Defendant

Date: 30 November 2000

DECISION OF GREIG CJ

Wesley Kauvai, you have been found guilty on one charge of rape. You defended the case, denied the charge and the jury found you guilty. The circumstances were that you had been at a party, you followed the victim home, entered her house and bedroom and then raped her. There was no additional force employed in this case except of course the force and the assault of the rape itself. In a way it might be said that you tricked the victim rather than forcing her to have sex with you. You don't come before this Court as a first offender, and you are not of course entitled to any benefit of a plea of guilty.

I read with care the Probation Officer's report and take into account the personal circumstances as reported by the Probation Officer. Although you are a young man, you are not a youth and you must take the responsibility for your act. I've also taken into account the victim impact statement in this case. There are in my view no mitigating circumstances in the event of the crime itself but it is not what might be described as a more serious case. I think that the appropriate penalty is a sentence of 5 years imprisonment and that is the sentence I impose.

Ben Lewis CJ
CHIEF JUSTICE