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

CR NO'S 476, 496, 717 & 752/12

POLICE

v

TUAINÉ MAMANU

Hearing: 8 November 2012
Counsel: Mr N Ngatokorua for the Crown
Mr C Petero for the Defendant
Sentence: 8 November 2012

SENTENCING NOTES OF GRICE J

[1] Mr Mamanu you are facing some very serious charges here. You are facing a total of four burglaries and they happened within a short period of time. The burglary of Feluiti Vila on the 25th June 2012, of Steven Boggs on the 14th May 2012, the Teonoi Beach House on the 23rd August 2012, and Noorea Setepano on the 20th May 2012.

[2] The maximum period of imprisonment for each of those burglaries is 10 years imprisonment.

[3] The Crown have outlined what happened and it does you no credit at all.

[4] In relation to Feluiti Vila, you went into the house, you broke in, you stole a Touchstone Ipod, an orange cap, \$40 cash from inside someone's wallet.

[5] In the second burglary, the one at Teonoi Beach House, you actually saw someone sitting inside the house and then broke into the laundry, again found a wallet, went into it and took \$150 cash out of it. You took some money from another wallet in a handbag. And then you said you spent it on soft drink, food and snacks and you might have lost some.

[6] Then the burglary of Noorea Setephano, the occupants were sleeping in the house when you broke in. You went into their bedroom, you grabbed a bag, you took \$390 cash, two mobile phones, and one of the occupants woke saw you and you ran off. That is very serious.

[7] And then in May 2012, you went into Steven Boggs' home and you stole \$2,100 US dollars, took a drink out of the fridge. Luckily the Police found the \$1000 by they are still seeking from you that amount of \$1065. Where are you going to find \$1065?

[8] Fortunately these burglaries for everybody concerned, including you, did not involve violence. A particularly serious aspect though is that the incidents where people were in the house. These circumstances often result in violence. It is just luck that it did not happen here.

[9] You did not have any explanation for these burglaries. You told the Probation Service you were just bored, just wanted things.

[10] Mr Petero, has put your side of the story. He said you have had a stern father, particularly since these burglaries he has been stern with you. He will not get in touch with you. Mr Petero says you are trying to start afresh, you can see where this is going, Mr Haumata confirmed that he wants to help you, he can see where this is going and as you are a friend of his son he will support you. He wants to help you. You are very fortunate having someone like that trying to help you.

[11] It is tragic in that you are only 17 years of age and you are facing a period of imprisonment. You were 16 when these offences occurred. You have been before the Court on burglary charges where you were given a chance. You were given 12 months probation but while serving that you re-offended.

[12] You were raised by your parents and your paternal grandmother, who have obviously just tried to do the best, clearly your father is extremely upset about these offences.

[13] In your favour, you were very cooperative with Probation, you acknowledged your wrongdoing, you have taken full responsibility for your actions and apologised to the Court. Mr Petero has reiterated that for you. You say you miss your family because your mother and your brothers and sisters are on an outer island, but that is no excuse.

[14] In your favour is that you pleaded guilty early and you acknowledge your wrongdoing.

[15] I have listened to the helpful submissions from both the Crown and Mr Petero.

[16] The Crown says you should go to jail for 6 to 9 months. Mr Petero accepts that a custodial sentence, which means going to jail, is likely. He was trying to persuade me that perhaps another chance should be given. Unfortunately in this case you have had your chance.

[17] The purposes of sentencing that I have to take into account include that you are held accountable for what you have done and also to deter others. Burglaries are becoming an increasing problem in the Cook Islands. This has been pointed by the Crown and mentioned by this Court on a number of occasions. The safety and security of the people of the Cook Islands and their visitors is crucial to the Cook Islands.

[18] You have not responded to supervision and probation, so that is no longer an option. I am left with few choices other than a custodial sentence. I come to that with great reluctance given your young age.

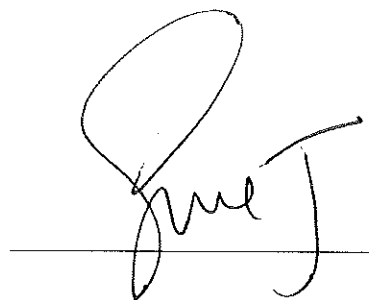
[19] In the *Police v Maka* (CR 43, 134-135, 778/2011 and 45/2012) that the Crown cited, indicated that there has been an increasing response by the Court to these burglaries and treating them very seriously. In that case the Judge said that burglary offending would ordinarily attract consideration of a short term of imprisonment. In this case this is not the first series of burglaries that you have done.

[20] The starting point I take for a custodial sentence is imprisonment of 8 months. Given your guilty plea and your remorse and your young age, in mitigation I would reduce that to 5 months imprisonment.

[21] I have considered the Crown's application for restitution. I can see no possibility of your being able to pay restitution, certainly not now you are going jail. Your father wants nothing to do with you. It is inappropriate to order restitution in these circumstances.

[22] Accordingly you are sentenced on each of the four charges of burglary to a term of imprisonment of 5 months to be served concurrently.

[23] I do hope you do find a way to turn your life around. You have got your life ahead of you and you do not want to spend the rest of it in jail, it is not a good place to be. And I can only hope that with the help of Mr Haumata, who is here today, you are able to pull yourself out of this.

A handwritten signature in black ink, appearing to be 'James J.', written over a horizontal line.

