

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

CR NO'S 352/12 & 434/13

POLICE

v

JOSEPH ANTHONY COWAN

Hearing: 10 May 2013
Counsel: Ms C King for the Crown
Mr C Petero for the Defendant
Sentence: 10 May 2013

SENTENCING NOTES OF THE HON. JUSTICE DAME JUDITH POTTER

[FTR 09:12:25]

[1] Joseph Cowan you are before the Court having pleaded guilty to two charges. One charge of possession of cannabis which carries a maximum penalty of 2 years imprisonment or a fine not exceeding \$2000. And the second charge is possession of a utensil used for smoking marijuana, mainly a bong. That is clearly the lead offence, it carries a maximum sentence of 5 years imprisonment or a fine up to \$5000 or both.

Facts

[2] On Wednesday 11th April 2012 the Police executed a search warrant at your address in Matavera. During the search the Police found a plastic drink bottle that had been modified into a bong for smoking cannabis as well as a small amount of dried cannabis, approximately 1.15 grams in weight. You admitted to the cannabis and the bong as being yours and said they were for your personal use.

[3] I have received a thoughtful and helpful pre-sentence report in this matter together with a number of references which I have read. Clearly you are well regarded by your employers and in the community and it is a matter of great regret that at the age of 38 you are before the Court, a mature person on drug offences such as this.

[4] I note that you have only one prior offence which dates back to 2008 and is not drug related.

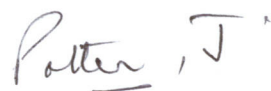
[5] The Crown rightly submits that drug offending is a serious concern in the community and that the Court will impose deterrent sentences for drug offending. Furthermore personal circumstances of the offender play little part in determining the nature and extent of the sentence and that is because the penalties imposed must be deterrent not only for the offender but for the community at large. However, your offending is at the lower end of the scale for this type of offending, as the Crown accepts. You pleaded guilty at the earliest opportunity and, as I have stated, it is your first drug related offence at the age of 38 years.

[6] Mr Petero has filed submissions on your behalf which seek that this offending be met by the significant fine and he and you have assured me that you have the ability to pay such a fine.

[7] You have to understand that a term of imprisonment is usual for such offending and in your case if you were to offend again in this way, you would have to accept and expect that a term of imprisonment would follow.

[8] However in respect of this offending I sentence you to a fine of \$800 and I order that the utensil be destroyed.

[9] You are to pay Court costs of \$30. You may stand down.



Judith Potter, J