

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

CR NO: 677/2013

POLICE

v

PATRICK ARONA

Date: 21 March 2014

Counsel: Mr T Manavaroa for Crown
Mr N George for the Defendant

Sentence: 21 March 2014

SENTENCING NOTES OF HUGH WILLIAMS J

[1] Patrick Arona, at the age of 22, you appear for sentence on one charge of cultivating cannabis between 1 July 2013 and 27 November 2013. The plea was entered on 16 January 2014 at what would appear to be the second appearance. This is a very serious offence, the maximum penalty for which is no less than 20 years in jail.

[2] The facts appear to be that when the Police visited your property - I accept Mr George's suggestion it was not pursuant to a search warrant but it really does not matter - they found three adult cannabis plants in a hedge and three more inside a water tank plus, in the tank, fertilizer and other implements for cultivating cannabis. It seems as though the smallest of the plants was about half a metre high and the tallest about one and a half metres.

[3] The Probation Service tells me that you had an unstable home environment when you were growing up and an unfortunate educational experience but you have been in a stable defacto relationship since 2008 with two children.

[4] However, they do say that your partner was angry at you when you cultivated these cannabis plants, asked you to destroy them and you refused. That aspect of the matter needs to be set against the suggestion by Mr George that you were given the six seeds and planted them just out of curiosity to see what would happen.

[5] It does seem however, that all parties agree that you are not a smoker and there is no evidence that you sold any cannabis nor any evidence that you were making preparations for sale. The fact that there were six plants needs to be set against that.

[6] You have had a stable employment for the last six years or so, with a very helpful employer who has given you a testimonial but who plainly very disappointed in what you have done on this occasion, and understandably so.

[7] The Crown point to the size of the plants and suggests that there must have been some considerable efforts spent by you in cultivation over about a five month period. That is confirmed by your pleading guilty to an information which relies on a five month cultivation period.

[8] The Crown suggests that you are in Category 1 of the categorisation of drug dealing offences that I will come to in a moment.

[9] Mr George on your behalf suggests that all of this was nothing more than curiosity and an experiment but I have already mentioned the factors that rather militate against that.

[10] Now you have heard me describe to the previous offender how the Court of Appeal is now telling us that sentencing for drug offences in the Cook Islands has been too lenient, and the common prevalence of the offending with drugs is now such that the Courts need to react to the fact that Parliament has increased the maximum penalty for drug offences very considerably. As I said at the outset you are facing potentially no less than 20 years in jail.

[11] The categorisation which the Court of Appeal has accepted is that Category 1 – cultivation for personal use without any sale to a third party - the starting point needs to be a fine to a short term of imprisonment; Category 2 – small scale cultivation for commercial purposes - the starting point needs to be somewhere between two to six years in jail, and in Category 3 – large scale of commercial dealing which isn't the feature of this case - draws five to ten years imprisonment.

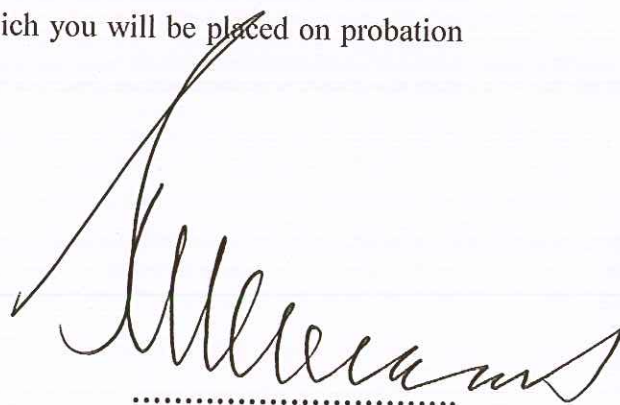
[12] Mr George suggested you were in Category 1.

[13] In my view, you are on the border line between Category 1 and 2. You were growing six plants. They had at least commercial potential. You were not growing them for personal use because you are not a smoker, certainly not a smoker of cannabis. There would have been a temptation for you to sell cannabis but you are not to be sentenced for that. Nonetheless, the potential is there and you need to be considered on the border line between Category 1 and Category 2. That means that I need to look at a short term of imprisonment as a starting point for you.

[14] In my view, the starting point in this case should be about 12 months imprisonment for cultivating as many as half a dozen plants over a lengthy period. You are entitled to a reduction from that for your early plea and your acceptance of responsibility. Although it is not of much importance, this is not your first appearance before the Court. In my view, what, really affects the seriousness of what you did was the number of plants and the length of time you had kept them in cultivation, over your partner's protest.

[15] Taking all those matters into account, in my view, the appropriate sentence to impose on you is one of six months imprisonment following which you will be placed on probation for 12 months.

[16] You may stand down.

A handwritten signature in black ink, appearing to read 'Hugh Williams', written in a cursive style. The signature is positioned above a dotted line.

Hugh Williams J