

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

CR NO: 63-64/2015

POLICE

v

NORMA TAIRI

Date: 22 May 2015

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

SENTENCING NOTES OF JUSTICE DAME JUDITH POTTER

[1] Norma Tairi you are before the Court for sentence on two charges to which you have entered guilty pleas. The first is careless driving causing injury under Section 26 of the Transport Act 1966. This offence carries a maximum penalty of five years imprisonment and a fine not exceeding \$5000.00. I treat that as the lead offence.

[2] You have also pleaded guilty to a charge of driving with excessive blood alcohol under Section 28(A) of the Transport Act 1966. That offence carries a maximum term of imprisonment of twelve months and a maximum fine of \$1000.00 or both but importantly it carries a mandatory disqualification period from holding or obtaining a drivers licence of twelve months.

[3] The background facts may be summarised briefly. On the 4th February this year there was a collision between two motorcycles on the main road at Betela, Arorangi. You were

coming out of a driveway to enter upon the main road. You failed to stop and ascertain that the road was clear, you continued into the main road colliding with the victims motorcycle which caused him to be thrown off his motorcycle. He sustained facial injuries requiring medical attention. A subsequent blood test was conducted on both drivers. Your test showed that you had 137mg of alcohol per 100ml of blood which was above the legal limit of 80mg of blood.

[4] You had been consuming alcohol previously, as you acknowledged. You were having a bit of a celebration with work companions prior to your entering nursing studies at the School of Nursing in Rarotonga.

[5] I have received a helpful pre-sentence report and helpful submissions both from the Police and in Court today from Mr George on your behalf. Mr George has also tendered a number of references which undoubtedly testify to the quality and promise of you as a student and as a person.

[6] There are relevant mitigating factors in relation to you and your offending Ms Tairi. You are only 21 and you come before the Court for the first time. I would like to say, I hope it is the last time, because criminal offending doesn't sit well with a nursing career.

[7] You pleaded guilty at the earliest opportunity; Mr George has spoken about that. You acknowledge your wrongdoing and you are apologetic and remorseful for it. You are willing to pay damages in respect of the victim's bike but my understanding is that no steps have been taken in that direction so far.

[8] The aggravating factors are the damage and the personal injury caused to the victim and your blood alcohol level at the time of the collision. The Police accept that in your case, a non-custodial sentence is appropriate. Mr George has made submissions to that end which in large measure, I accept.

[9] In respect of the lead charge, careless driving causing injury you are sentenced to 12 months Probation. The Probation report suggests there be conditions about the purchase and non-consumption of alcohol and not entering licensed premises. I do not consider those conditions are necessary. I rely on your good sense to avoid association with alcohol.

[10] On the excess blood alcohol charge, you are fined \$250.00. That offence carries the mandatory 12 month disqualification from holding a drivers licence, as I have already stated.

[11] I Order you to pay reparation of \$1639.43 to the victim Sean Wichman. How you do that is a matter for discussion between you and the victim, but it is a Court ordered obligation which you must honour.

[12] You may stand down.

Judith Potter J.
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Judith Potter J