

POLICE

v

SOLOMONE TAUFHEMA

Date: 31 May 2016

Counsel: Ms A Mills for the Police
 Mr W Rasmussen for Defendant

SENTENCING NOTES OF HUGH WILLIAMS J

[1] Solomone Taufahema, at the age of 18, you appear here today for sentence having pleaded guilty to one charge of indecently assaulting a tourist on 08 October 2015 and one charge of burgling the tourist accommodation where she and her husband were staying on that occasion.

[2] You have already spent about two months by my calculation in custody as a result of this incident. You pleaded guilty on 28 January 2016 and it is not until now that you have been able to come up for sentence.

[3] As Counsel have said the two offences for which you will be sentenced carry a maximum term of imprisonment of seven years in the case of the indecent assault and 10 years for the burglary.

[4] The facts are that on about midnight that night you were walking down the beach and decided to burgle a Villa in a nearby resort, initially for money. You opened the sliding door found the couple sleeping there they were naked you went up to the 23 year old woman and touched her genitalia and her nipples. She was in Rarotonga on honeymoon with her

husband. Fortunately she awoke, screamed and you ran away. It is to your credit that you admitted the offences when you were apprehended by the Police.

[5] At the time you were on probation. You had been convicted of being unlawfully found in a dwelling on 29 September 2015 that is to say only about a month before these offences took place and you had also been convicted earlier in July 2015 of burglary. So you were on probation and under the supervision of the Probation service when you committed these offences.

[6] A helpful probation report tells me that you are Tongan by birth but have lived in Rarotonga for many years, although your family has had difficulties while you have been over here including your father being in prison for incest and now being incapacitated and permanently in a wheelchair, it seems as a result of fish poisoning. You have been in employment since early last year and the testimonial provided by your employers speaks well of your work record. It seems you devote most of your earnings to helping your family in their difficult financial circumstances.

[7] The Probation service suggests that the appropriate penalty would be to admit you to probation with part of it being served on community service but as I remarked to Mr Rasmussen that is just not a practical option when you commit two serious offences of this sort while you were already on probation. A sentence of that sort would be to give too greater emphasis to your father's incapacity and too little emphasis to the victim's interests.

[8] Ms Mills for the Crown suggests - and I agree - that the lead offence should be that of sentencing on the indecent assault. I need to find a sentence which will hold you accountable for the crimes and denounce what you did and try to put others off offending involving tourists like this.

[9] Ms Mills suggests - and again I agree - that the aggravating circumstances, those who make this offending worse than a normal one of indecent assaults or burglaries, is that it was invasion of tourist accommodation. The tourist industry is vital to the economic life of the Cook Islands and this kind of sneaky offence is all too common, partly because offenders know that victims are reluctant to return to Rarotonga to give evidence at trial if the offender pleads not guilty. Thus there is an increased chance of offenders escaping without being

convicted for crimes of this sort. This offending strikes at the Cooks reputation as a desirable tourist venue.

[10] Ms Mills suggests that the early plea that you entered should reduce the sentence by about a third and again I agree with what she says. She draws my attention to two cases here involving Mr Manuel where some three and a half years and 12 months was imposed but those are not strictly comparable, in part because in one case the offender was already in jail.

[11] Mr Rasmussen appearing for Mr Short draws on your family circumstances and the assistance you have received from your employer and suggests that your entry of the pleas of guilty at an early stage shows that you have accepted responsibility for these crimes. Obviously you would not have pleaded guilty had you not accepted responsibility but nonetheless these crimes are serious and you need to be dealt with seriously as a result.

[12] In my view the appropriate starting point for sentencing you is to consider a jail term in the range of two to three years. The circumstances making your offending worse than the normal run of this kind of offence is that you had previous convictions and you were on probation at the time, that include a previous conviction for burglary.

[13] Ms Mills has referred to the Victim's Impact Statement. It seems that she is somebody who works with at risk families so one might assume she has some experience of dealing with difficult people but nonetheless what you did to her that night on her honeymoon made her scared to go out anywhere else, scared to go out alone without being accompanied, she has missed time off work, she has had to take psychological counselling. That is a graphic description of the kind of effect that offenders such as you can bring about.

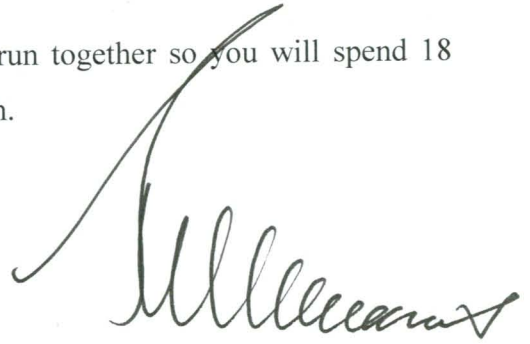
[14] The mitigating circumstances, those that would reduce what would otherwise be the appropriate term of imprisonment of something in the order of three to four years in jail, that you did enter pleas of guilty. It was a bit late but at least you freed the victim from the concern she must have had, not only that she would need to relive the experience by returning to Rarotonga to give evidence but also to return to where your offending caused such significant effects on her. In my view that plus your youth entitles you to a reduction of something of the order of a third from what would otherwise be the appropriate sentence and I can make some small allowance from your family circumstances. The fact that you are

going to jail means that your family is going to be deprived of your income - earning capacity for sometime anyway so they will need to find some means to survive.

[15] In the result in my view the appropriate term of imprisonment to impose on you on each charge is 18 months in jail.

[16] The terms will be concurrent that is to say they run together so you will spend 18 months in jail as a result of your offending on this occasion.

[17] Stand down.

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

Hugh Williams, J