

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

CR NO. 59/19

POLICE

v

JARROD PILATO TANGAROA

Date: 27 November 2019
Appearances: Mr F Tararo for prosecution
Mr M Short for defendant
Sentence: 27 November 2019

SENTENCING NOTES OF WOODHOUSE J

[10:03:16]

- [1] Mr Tangaroa, you are charged with careless driving causing injury.
- [2] The maximum penalty for that offence is either 5 years' imprisonment or a fine of \$5,000.
- [3] The facts in outline are as follows.
- [4] On the 10th January 2019 you were on a motorbike on the main road. You were overtaking a truck. The injured person, Mr Karavaki, was on a motorbike in front of the truck. Mr Karavaki was indicating a right hand turn across your path and you collided into the front tyre of his bike. Mr Karavaki sustained abrasions to his scalp and abrasions and lacerations to some other parts of his body. He stood up soon after the crash. He was treated in hospital and he was discharged.
- [5] You admitted fault when first spoken to by police.

[6] In my assessment, this is a low level of careless driving compared with many other cases. It is undoubtedly careless driving and you need to be convicted and some other penalties for the offence considered, but it is at a low level in my assessment.

[7] The following matters go to mitigation. That is, reduction of the penalty that would otherwise be imposed. You are 19 years old. This is your first offence. You were fully co-operative with the police. You have shown genuine remorse. You made efforts to arrange a meeting with Mr Kavaki to apologise directly but he declined. You also offered to pay a small amount towards medical expenses incurred by him in the hospital. You have paid the cost of repair of Mr Karavaki's bike, a sum of \$1,310. I understand that has come with support from your family but it nevertheless reflects favourably on you as well and it is a substantial sum I apprehend in the circumstances of your family.

[8] Your mother has written a detailed letter which indicates that you, up till now, have done well academically and in sport. You have led a constructive, positive life. She describes you in her words as a "high achiever" and there is no reason to question that.

[9] In January 2018 you suffered what has turned out to be a traumatic event for you, understandably, and this is relevant. You were stabbed when trying to save a friend who was being repeatedly stabbed. Since that event, you have shown determination to try and get over this and continue with a constructive life. I do understand, and you have shown the impact on you just then by your reaction to what I just said. The efforts you were making to get on with your life were set back considerably when you had to appear in court, as a witness in the trial of the offenders or offender, in November 2018. And the direct relevance is that your appearing a witness occurred really not very long before this offence occurred. Medical attention you have received in New Zealand indicates, and it might have been apprehended in any event, that you have suffered post-traumatic stress from being involved in that incident and clearly it has been added to by having to appear and go through it all over again at the trial. Only two months before this incident occurred.

[10] As I understand it, at the present time you are unemployed – and you have just confirmed that to be the case.

[11] Having regard to all of those matters, I have concluded that the sentence should be significantly reduced from what it would be if the only thing I was considering was the poor quality of your driving.

[12] The sentence is that you are convicted. You are to pay \$320 for standard blood alcohol reports for you and Mr Karavaki and I note there is no suggestion of alcohol being involved when you were driving. There will be no further penalty.

[13] Thank you.



Peter Woodhouse, J