

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

CR NO'S 563/18, 210/19

POLICE

v

SEMISI BOSELAWA LOKI

Date: 7 August 2019

Counsel: Ms K Bell for Prosecution
Mr N George for Defendant

SENTENCING NOTES OF DOHERTY J

[9:28:34]

[1] Semisi Loki, you have pleaded guilty to possession of a utensil used for the consumption of cannabis. You had a home-made bong in your possession.

[2] I understand that you either were or still are a cannabis user. Certainly you were a cannabis user at the time. You have pleaded guilty to that charge and also pleaded guilty to a contempt of court which is the breach of a condition of your bail. You had a curfew imposed on you from 7.00 in the evening until 7.00 in the morning.

[3] I am at something of a loss to understand why such a condition ought to attach to a charge like this but you knew that you were not supposed to be out after 7 o'clock and you went down to a shop to get an ice cream. I think that seems to be accepted by the police that there was nothing more nefarious or nothing bad about your behaviour. It just was in breach of the condition.

[4] This is the first time that you have been before this court. You are described as a good worker, a polite person, you are sorry for this. I am not sure how sorry you are. You are probably sorry you got caught but you have tendered your apologies through the Probation

Service. I am told you have no dependents. You have left home and are living with a group at one part of the island. You had previously been living with your mother.

[5] You pleaded guilty at a reasonably early opportunity.

[6] I have had the benefit of a probation report and I think you have probably impressed the Probation Service. It is a report that is supportive of you.

[7] However, that and the police submissions recognise that on these islands, recently, in the last few years the Parliament increased dramatically or increased a lot the maximum sentences for any drug offending. And that was from simple use or possession of a bong, up to drug dealing. And these charges, or this charge carries a sentence of 5 years imprisonment as a maximum, so you can see how serious that the people of these islands view this offending.

[8] Understandably, both the Probation Service and the police say that the fact that it is looked at seriously must be taken into account even for first offenders such as yourself. And the aim of sentencing here is to try and let you know you cannot do this, deter you from doing it again, deterring others, denouncing drugs and their use in any form on these islands. I am also obliged however to take into account the least restrictive sentence that could be imposed.

[9] I have also been referred to a number of other cases where people have been sentenced for like things. No two cases are the same. I think the principles of sentencing mean that I can deal with you by a combination of sentence.

[10] The Probation Service have recommended a sentence of community service. Police agree with that. Police also want to have some probation. There does not appear to be any need for rehabilitation for you, you are not seen as a drug user problem.

[11] I think there will ought to be a two prong attack in terms of the sentence. I suspect a significant fine will be just as great a deterrent to you as to doing some community service. However, the community ought to know that you are giving back to it in another way. I am told by or it is confirmed by your employer that you are paid \$250 per week.

[12] I think a months' wages, that is \$1,000, as a fine is appropriate, together with 3 months of community service and that will be a combination.

[13] So on information 563/18 which is the drug related matter:

- a) You are fined \$1,000; and
- b) You are ordered to pay court costs of \$50; and
- c) You are also sentenced to 3 months community service.

[14] On the breach of the condition of your bail, you are convicted and discharged without any penalty.

[15] So that is 3 months community service and \$1,050 for fine and costs. You can make arrangements before you leave the court with the Registrar about how that is paid.

[16] Thank you.



Colin Doherty, J