

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

CR NO. 179/2020

POLICE

v

VAIKE RUAARIKI POTORU

Hearing date: 11 August 2020

Counsel: Ms J Epati for the Crown
Defendant in person

Sentence: 11 August 2020

SENTENCING NOTES OF HUGH WILLIAMS, CJ

[11:14:50]

[1] Vaike Ruaariki Potoru, you appear today for sentence having pleaded guilty on 14 May 2020 to one charge of careless driving causing injury on 21 February this year. The maximum sentence is a jail term of five years or a fine of a \$1000.

[2] It seems clear that what occurred on this occasion was very much towards the lower level of careless driving causing injury. You were driving towards your home. There were significant potholes in the road and roadworks in the rea which caused you to drive on the opposite side of the road. You failed to indicate that you intended to turn right into your driveway. As Mr King on his motorcycle coming up behind you endeavoured to overtake you, because of the slow speed at which you were travelling there was a collision as a result of which he was injured and the bike was damaged.

[3] There is a victim impact statement which makes clear that although Mr King initially thought his injuries were modest and the damage to his bike was not great, as time went on contusions and the like developed and he suffered more personally than he initially expected.

[4] His motorbike cost \$1,185 to repair and you hastened to pay that, so he is not out of pocket and it is clear from the email trail between you and Mr King which is with the material before me, that Mr King appreciated the speed with which you paid him for the damage to his bike and bears you no ill-will as a result of this incident which is the sort of accident which, as he says, could happen really to anybody.

[5] The probation report makes clear you have had a good upbringing. You are in a de-facto relationship. You described what happened in this case as a silly mistake which is an apt description for what occurred.

[6] You have no previous convictions and having regard to the outcome of the cases of similar offending which have been put before me, it is clear that this at relatively modest scale of offending.

[7] There are no aggravating circumstances but to reduce the amount of sentence is your early plea, your lack of previous convictions and the like.

[8] This is not a serious offence of careless driving causing injury. You have obviously regretted what occurred. You have done everything you possibly can to overcome the consequences of your silly mistake and the question is what is the appropriate sentence to impose having regard to all the circumstances of the offence.

[9] Ms Epati for the Crown says it would not oppose a discharge without conviction in the circumstances. The only difficulty about that is that it is an extremely lenient outcome for a piece of driving which justifiably gave rise to a charge of careless driving causing injury.

[10] But if a conviction is entered there is a mandatory disqualification from driving under s 31 which must follow and that, in the circumstances as I have described them, is out of proportion to the offending.

[11] So in the circumstances I think a discharge without conviction is appropriate.

[12] An additional reason for leniency is that you have had the worry of waiting for over three months for sentencing given the pandemic circumstances which have affected the conduct of Court business during that period.

[13] If you are discharged without conviction I cannot order you to pay for the medical reports. So the outcome will be simply that the charge is dismissed without a conviction being entered.

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

Hugh Williams, CJ