

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

CR NO. 681/2020

POLICE

v

TEATUANUI MARTHA WICHMAN GEORGE

Hearing date: 12 March 2021

Counsel: Senior Sergeant T Manavaroa for prosecution
Mr N George for defendant

Sentence: 12 March 2021

SENTENCING NOTES OF HUGH WILLIAMS, CJ

[8/46/21]

[1] Teatuanui Martha Wichman George, at the age of 17 you appear here for sentence on two charges; one for careless driving causing injury where the maximum sentence is five years imprisonment or a \$5000 fine, and driving with excess blood alcohol where the maximum sentence is 12 months imprisonment or a \$1000 fine, and in each case there can be a disqualification from holding or obtaining a drivers licence for varying periods up to three years.

[2] The summary of facts shows that on 21 November last year at about quarter to nine in the morning, you had been drinking. The probation service says it was because you were upset that your then relationship had just broken down. You saw a garbage truck going about its business with its hazard lights on. You were driving at about 60 or 65km/hr, well over the limit, did not slow down, and hit the victim who was going about his business on the garbage truck.

[3] And your reading when your blood was analysed was 120mcg/ml.

[4] The victim impact statement shows that he was seriously injured. He had a compound fracture of his right leg which needed a rod to be inserted to cure the problem. He had abrasions, a large wound and he was off work for two months. Fortunately his employer kept him on on full wages. But he is still left with a bit of a limp. He cannot lift heavy loads anymore and his employer has had to shift him to lighter work. But the victim, fortunately for you, supports you in this prosecution and wants me to impose as lenient a penalty as I can in the circumstances.

[5] The police approach is that this is yet another instance, all too common in the Cook Islands, where people get drunk, drive and hit people. But they recognise you are very young, it is your first appearance, you are genuinely remorseful, were cooperative with the police and of course you pleaded guilty at pretty much the first opportunity of doing so.

[6] The probation service tells me that you had just broken up a relationship and it was a relationship which was unstable in any event. You went drinking as a result.

[7] You are employed as a painter at The Edgewater. Again, fortunately for you, your employer supports you and has continued to employ you. You are still earning a wage although a reduced wage because of the Government subsidy during the pandemic and out of that minimal wage you continue to support your family.

[8] The probation service suggests, and I quote, "That this should be met with a hefty fine".

[9] Senior Sergeant Manavaroa has put in front of me several cases of similar incidents in all of which there was slight carelessness but quite significant consequences, as was the case in this instance. Most of those were met with relatively modest monetary penalties.

[10] As I said, this sort of driving is all too frequently seen in the Cook Islands; people getting drunk, driving too fast and causing accidents. The seriousness is shown by the maximum penalties I have outlined earlier.

[11] The circumstances making this worse for you are that you were drunk early in the morning, perhaps because of your relationship break-up, that a moment's thought would have shown that you should never had been on the road that morning. You were going too quickly – well over the allowable speed limit – and did not slow down when you saw the rubbish truck with its hazard lights on. That shows that your driving was very poor on this occasion.

[12] But on the other hand you pleaded guilty at an early stage. You are young. It is the first time you have been in court. You are remorseful and you are fortunately supported all around including by your mother here this morning.

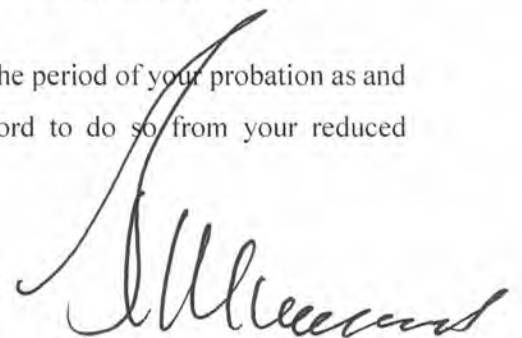
[13] I am certainly not going to contemplate sending you to jail, that would be far too serious. But this was bad driving in the circumstances.

[14] On the charge of careless driving cause of injury I am going to fine you \$500. That is less than I initially considered imposing but I have reduced it because of your reduced income in the COVID circumstances.

[15] I sense you are at a stage where you may need a bit of outside guidance and I am going to place you on probation for 12 months with a condition that you pay the fine and the other costs I am about to impose as the probation office directs. You are disqualified from holding or obtaining a drivers licence for two years from today.

[16] On the excess blood alcohol there is no fine. You will be disqualified for 12 months but that will run at the same time as the disqualification on the careless causing injury but I will add to that the \$150 analyst fees and the \$20 medical report.

[17] So you will be required to pay \$670 during the period of your probation as and when the probation officer suggests you can afford to do so from your reduced earnings.



Hugh Williams, CJ