

IN THE SUPREME COURT OF TONGA
CRIMINAL JURISDICTION
NUKU'ALOFA REGISTRY

CR 255 OF 2010,
07, 52, 99 and 156 OF 2011

REX

-v-

VAIOLA PAHULU

BEFORE THE HON. JUSTICE SHUSTER

HAVING HEARD - Crown Counsel, and Mr. Tu'utafavia

The defendant appears for sentencing - having pleaded guilty on various different dates on arraignment and on re-arraignment on various indictments, alleging **FORTY TWO** counts of HSB and **FORTY TWO** counts of theft of property, valued at over 147,000.00TOP

According to the prosecution these **EIGHTY FOUR** offences were committed by the defendant in a continuing course of conduct, breaking and entering homes when people were asleep in their own homes at night and very little property has been recovered during the police investigations.

On his final re-arraignment on 19th August 2011 the defendant was told he would be given some credit for his change of pleas to - guilty pleas, and, the case was adjourned for the preparation of a PSR and, the defendant was remanded in custody to 16th September 2011 for sentencing.

It should be noted that the defendant is NOT a first time offender in fact the defendant has eleven previous convictions for similar offences including escaping lawful custody, and the police record shows that in December 2005 the defendant was sentenced to five and a half years in prison for similar offences - when on that date a suspended sentence was activated.

On 19th September 2011 the defendant appeared from custody for sentencing having been held on remand in the police cells.

Having considered all the facts of the case, including the contents of the PSR and considering the fact that the defendant pleaded guilty on the 19th August 2011 to all the offences and, considering the fact the defendant co-operated with the police and with this court - and having heard from the defendant's counsel and noting that he is NOT a first time offender.

I told the defendant that these were particularly serious cases in view of the pattern of offending, the frequency of offending, and the high volume of property stolen with very little property recovered. These 84 cases required the imposition of a deterrent sentence and the court was thinking of imposing a 10 year sentence for each HSB and a further 3 years for each theft charge. Sentences to run consecutive to each other - as the public deserved protection from this particular defendant.

Mr Tu'utafavia asked the court to adjourn for a psychiatric report, but I said that I felt the hospital was not that secure and this defendant would no doubt attempt to escape as he has done in the past, and continue his pattern of offending. In my respectful view any mental health element could and should be addressed whilst the defendant is detained in prison.

ACCORDINGLY

The defendant is sentenced as follows:- File CR 255-2010

- Count 1** - The defendant is sentenced to TEN years in prison
- Count 2** - The defendant is sentenced to TWO years in prison
- Count 3** - The defendant is sentenced to TEN years in prison
- Count 4** - The defendant is sentenced to TWO years in prison
- Count 5** - The defendant is sentenced to TWO years in prison
- Count 6** - The defendant is sentenced to TWO years in prison
- Count 7** - The defendant is sentenced to TEN years in prison
- Count 8** - The defendant is sentenced to TWO years in prison

The defendant is sentenced as follows:- File CR 07-2011

- Count 1** - The defendant is sentenced to TEN years in prison
- Count 2** - The defendant is sentenced to TWO years in prison

Count 3 - The defendant is sentenced to TEN years in prison
Count 4 - The defendant is sentenced to TWO years in prison

The defendant is sentenced as follows:- File CR 52-2011

Count 1 - The defendant is sentenced to TEN years in prison
Count 2 - The defendant is sentenced to TWO years in prison

The defendant is sentenced as follows:- File CR 99 & 156-2011

Count 1 - The defendant is sentenced to TEN years in prison
Count 2 - The defendant is sentenced to TWO years in prison
Count 3 - The defendant is sentenced to TEN years in prison
Count 4 - The defendant is sentenced to TWO years in prison
Count 5 - The defendant is sentenced to TEN years in prison
Count 6 - The defendant is sentenced to TWO years in prison
Count 7 - The defendant is sentenced to TEN years in prison
Count 8 - The defendant is sentenced to TWO years in prison
Count 9 - The defendant is sentenced to TEN years in prison
Count 10 - The defendant is sentenced to TWO years in prison
Count 11 - The defendant is sentenced to TEN years in prison
Count 12 - The defendant is sentenced to TWO years in prison
Count 13 - The defendant is sentenced to TEN years in prison
Count 14 - The defendant is sentenced to TWO years in prison
Count 15 - The defendant is sentenced to TEN years in prison
Count 16 - The defendant is sentenced to TWO years in prison
Count 17 - The defendant is sentenced to TEN years in prison
Count 18 - The defendant is sentenced to TWO years in prison
Count 19 - The defendant is sentenced to TEN years in prison
Count 20 - The defendant is sentenced to TWO years in prison
Count 21 - The defendant is sentenced to TEN years in prison
Count 22 - The defendant is sentenced to TWO years in prison
Count 23 - The defendant is sentenced to TEN years in prison
Count 24 - The defendant is sentenced to TWO years in prison
Count 25 - The defendant is sentenced to TEN years in prison
Count 26 - The defendant is sentenced to TWO years in prison
Count 27 - The defendant is sentenced to TEN years in prison
Count 28 - The defendant is sentenced to TWO years in prison
Count 29 - The defendant is sentenced to TEN years in prison
Count 30 - The defendant is sentenced to TWO years in prison

**ALL HOUSEBREAKING SENTENCES - ARE TO BE SERVED
CONCURRENTLY.**

ALL THEFT SENTENCES ARE TO BE SERVED CONCURRENTLY.

**HOWEVER - THE THEFT SENTENCES ARE TO BE SERVED
CONSECUTIVELY TO THE HOUSEBREAKING OFFENCES**

**MAKING A TOTAL OF TWELVE YEARS IMPRISONMENT TO
START FROM 13TH APRIL 2011**

This is to be a deterrent sentence, applying the principles enunciated in
Crown -v- Cunningham

NB A copy of this order is to be served on the Prison Service

DATED: 16 September 2011

J U D G E

T. L. Piei