

father had said in evidence, namely that he was not missing such a cow.

[3] As to the sentence, however, the Magistrate gave no reasons for his sentence despite the accused making some effort to mitigate. I have said on several occasions that reasons for sentencing judgements must be given so that the recipient is made fully aware as to the basis or foundation for his or her sentence. That is fundamental for the good and fair administration of criminal justice, and means that, if the sentence is appealed, the Court is in a position to better evaluate the propriety of the sentence. Not only do reasons assure transparency, but they also cause the sentencer to pause, reflect and justify his or her sentence in a principled way, rather than rush to judgment and arrive at an ill-considered and possibly incorrect sentence.

[4] I accordingly decided to resentence the appellant. The Crown had conceded that the sentence was manifestly excessive suggesting a period of imprisonment of three months. I consider that short terms of imprisonment although fashionable in bygone days should be avoided if at all possible. The value of the cow was said to be \$3000.00. As such under section 145 the maximum sentence is 7 years imprisonment. Although the accused had some theft convictions, they were many years ago. He said his wife was pregnant and asked for mercy. I consider that the theft and rather brutal killing of the animal was a serious criminal matter because cows are very valuable for many Tongan families and they are often tethered insecurely at road sides or in insecure properties making them easy targets for theft. I consider that the sentence I impose should act as a deterrent but also, I do not forget that the appellant has not been involved in theft for many years and deserves, in my view, substantial credit for this. I also take the view that, although he defended the charge, he is a good prospect for rehabilitation considering his absence of offending for many years, and bearing

in mind also that he has a wife who is supportive of him. That will assist his rehabilitation. Accordingly, I sentence the accused to 12 months imprisonment for the theft of the cow but I fully suspend this on the following terms;

- i. He is not to commit any offences punishable by imprisonment for the period of imprisonment;
- ii. He is to perform 75 hours community work on the Vuna road under the direction of probation;
- iii. He is to report to probation by no later than 4pm on the 24th July 2017.

[5] A copy of this judgment is to be sent to Probation,

DATED: 24 JULY 2017



A handwritten signature in black ink, appearing to read "C. B. Cato", is written over the seal.

C. B. Cato
JUDGE