

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

ATTORNEY GENERAL'S OFFICE	
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AM 11 of 2021  
(CR 200, 201 of 2021)

BETWEEN:

**POLICE**

Appellant

-and-

**DEAN IONGI**

Respondent

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## JUDGMENT

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BEFORE: LORD CHIEF JUSTICE WHITTEN QC  
Appearances: Mr T. 'Aho for the Appellant on 13 September 2021 and Mr I. Finau on 30 September 2021  
Mr S. Fili for the Respondent  
Hearing: 13 and 30 September 2021  
Judgment: 30 September 2021

1. On 21 May 2021, Magistrate Tu'akalau sentenced the respondent in CR 200/20 to 3 months imprisonment for possession of 1.2 g of methamphetamine and in CR 201/20 to 6 months imprisonment for possession of 0.5 g of methamphetamine. He ordered both sentences to be served concurrently but fully suspended them and for a period of 12 months on conditions which included completion of a drugs awareness course as directed by his probation officer.
2. The appellant herein contends that the above sentence should be quashed because:
  - (a) it was so manifestly inadequate that it is wrong in principle;
  - (b) the learned Magistrate gave insufficient consideration to the weight of methamphetamines and accordingly the seriousness of the offending;
  - (c) the sentences imposed are inconsistent with those imposed by the Supreme Court; and
  - (d) the learned Magistrate did not justify his reasoning when imposing a sentence.
3. After initial opposition to the appeal (albeit based on apparent confusion about the weights of the methamphetamines the subject of the charges), on 27 September 2021, Mr Fili, who appears for the respondent:
  - (a) conceded the appeal;

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*[Signature]*

- (b) accepted the range of sentences as indicated by the comparable sentences referred to by the appellant below and in its submissions on this appeal;
  - (c) produced three testimonial letters;
  - (d) confirmed that the respondent had completed programs in alcohol, drugs, anger management and life skills with the Salvation Army; and
  - (e) on that basis, sought a further reduction in the substitute sentence to be imposed to one which is fully suspended on conditions including community service.
4. On 24 September 2021, the appellant communicated its acceptance of Mr Fili's submission on the basis that the respondent be required to complete 80 to 100 hours community service.

**Accordingly, the following orders were made:**

5. Appeal allowed.
6. The orders of Magistrate Tu'akalau on 21 May 2021 are quashed.
7. In substitution, the following sentences are imposed:
- (a) in CR 200/21 (1.2 grams methamphetamine) – 12 months' imprisonment;
  - (b) in CR 201/21 (0.5 grams methamphetamine, committed whilst on bail for CR 200) - 9 months' imprisonment;
  - (c) to reflect the totality of the offending, three months of the sentence for CR 201 is added to the sentence in CR 200, resulting in an effective head sentence of 15 months' imprisonment; and
  - (d) the balance of the sentence in CR 201 is to be served concurrently with CR 200.
8. Ordinarily, the head sentence would have been only partly suspended. However, as the respondent has completed rehabilitative courses with the Salvation Army, and with the concurrence of the prosecution, the head sentence will be fully suspended for a period of two years on the following conditions, namely, that during the period of suspension, the respondent is to:
- (a) not commit any offence punishable by imprisonment;
  - (b) be placed on probation;
  - (c) report again to the probation office within the next 48 hours; and
  - (d) complete 100 hours community service.
9. Pursuant to section 32 of the *Illicit Drugs Control Act*, the illicit drugs the subject of the proceedings are to be destroyed.

10. Pursuant to section 3 of the said Act, all packets and utensils seized during the searches the subject of the proceedings are forfeited to the Crown.

NUKU'ALOFA  
30 September 2021



A handwritten signature in blue ink, appearing to read "M. H. Whitten".

M. H. Whitten QC  
LORD CHIEF JUSTICE