

Plainly, there exists in Tonga an illicit market for Tongan mats and artefacts. I have warned in previous cases, that this Court will view very seriously housebreakings which have their object the theft of Tongan mats, and also very seriously receivers of those mats. Tongan mats require a great deal of time and effort in production and are very much part of Tongan culture and heritage.

3. The charge of possession of illicit drugs involved possession of .156 grams methamphetamine which the prisoner had acquired on the 28th December 2017 after he had been taken by police officers to Viola hospital. After seeing a doctor, he asked police officers if he could ask for some money from a vehicle parked in the grounds. He obtained a twenty dollar note but a police officer saw there was something in it when the prisoner tried to swallow the contents. The police forced the note out and saw that there was a small plastic packet containing methamphetamine. Although this is only a small amount of methamphetamine, it is of concern to this Court that appearances are becoming more frequent of offenders on charges of possession of methamphetamine. Methamphetamine is a very dangerous addictive drug. Overseas experience has shown just how dangerous it is. In order to fuel a habit, offenders will commit crimes to obtain money for the drug. Should this drug become entrenched in Tonga, as it has become in other countries, it will have serious repercussions for Tonga in terms of criminal offending and drug addiction. Those convicted of dealing or in possession of even small amounts of methamphetamine should expect to be sentenced to prison.
4. The prisoner is aged 26. His probation report indicates that he came from a family of 8 siblings. He is said to have come from a strong Mormon background but he has a long history of criminal offending that has baffled his family. He is said to have learned

his lesson and looks forward to a change of lifestyle. Looking at his criminal record which is extensive I am very doubtful whether he will rehabilitate. His offending commencing in 2008 when he was convicted of unlawful entry and, in the same year, 7 counts of housebreaking and theft for which he was given a lenient community based sentence. He was convicted in the same year of another 5 housebreakings and theft that resulted in a sentence of 5 years imprisonment. In 2012, he was sentenced by me to a further 3 years for housebreaking, the final year being suspended. In 2016, he was convicted of negligent driving resulting in injury and sentenced to 3 years imprisonment with the final year suspended. He was further sentenced in 2016 to one year imprisonment for escaping from lawful custody. I am informed by Mr Finau after an adjournment that his release date for the negligent driving and escaping charges will be a date in 2020.

5. In my view, he has in the past been treated leniently, and having parts of his sentence suspended, but he has chosen to continue offending. I view him as a recidivist housebreaker and the starting point I consider appropriate for the three counts of housebreaking in 76/2017 is 6 years imprisonment. The maximum sentence for housebreaking is ten years imprisonment. Housebreaking is a serious offence. Many houses in Tonga are easy targets for this kind of offending because they are insecure and easy for offenders to break into. Recidivist housebreakers like Mr Tupa should expect severe sentences of imprisonment. The head sentence will be count one in indictment 76/2017. I allow him 12 months for his early guilty plea making his sentence on count one for housebreaking 5 years imprisonment.

6. I sentence him to three years imprisonment for housebreaking on counts 2 and 3 of CR76/2017 these sentences to be concurrent with count one.
7. In relation to the thefts contained in 76/2017, I single out as the most serious count 4 where the value of the stolen Tongan mats was \$8400.00. In my view, a sentence should be imposed for this offending which reflects the theft of these mats. To steal Tongan mats is mean spirited and merits severe punishment. The maximum sentence is 7 years imprisonment. I impose a sentence of three and a half years imprisonment on this count taking into account his guilty plea. 12 months of this sentence will be served cumulatively upon count one making an overall sentence of 6 years imprisonment, on indictment CR76/2017.
8. In relation to counts 5 and 6 of theft where lesser amounts of Tongan mats were stolen, count 5 (\$2200) and count 6 (\$1800), sentences of 18 months imprisonment are imposed on each also taking into account his guilty pleas. These are to be served concurrently with count 1.
9. In relation to the offending in indictment 105/2017, I consider that an appropriate sentence for this offending bearing in mind that this must have been planned and carried out whilst in police custody, is 9 months imprisonment also taking into account his guilty plea. This sentence will also be added on to the combined sentence on count 1 and 4 in indictment 76 /2017 making an overall sentence of 6 years and nine months imprisonment for indictments CR76 and CR105 of 2017. Those who deal in or are in possession of methamphetamine can expect sentences of imprisonment to be imposed. Deterrence and the protection of society are foremost considerations in drug offending and more particularly methamphetamine offending.

10. I note that, in 2012, I sentenced him to three years imprisonment for housebreaking with one year suspended. The current housebreaking offences took place in 2015 so he has learnt nothing it seems and cannot expect further leniency and any further suspensions of sentence.
11. The sentences imposed here are to commence when he has completed the current period of imprisonment imposed for negligent driving and escaping from lawful custody. I do not consider applying the totality principle that the sentences imposed here cumulative upon his existing sentences of imprisonment is excessive. It is, in my view, an appropriate response to his recidivism, and his contumelious disregard of the law.
12. I have been told by Mr Finau for the prosecution that he is not entitled to have these offences backdated because his remand in custody for this offending was coincident with his serving terms of imprisonment for other offending.

DATED: 8 DECEMBER 2017



Cato
C. B. Cato
JUDGE