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IN THE SUPREME COURT OF TONGA
CRIMINAL JURISDICTION
NUKU'ALOFA REGISTRY **CR 11 of 2020**

BETWEEN:

REX

-v-

FANGUNA ALALEA

SENTENCING REMARKS

BEFORE: LORD CHIEF JUSTICE WHITTEN

Counsel: Mr T. 'Aho for the Crown

Mr Tu'utafaiva for the Defendant

Date of sentence: 13 March 2020

Charge

1. On 6 February 2020, the Defendant pleaded guilty to one count of offering a bribe to a member of the Tonga Police, contrary to s.165(1) of the *Tonga Police Act* ("Act").

Facts

2. At the time of the offence, the Defendant was a police officer from Tu'atakilangi.

3. On or about 13 July 2019, at around 5 AM, Constable Tu'amelie Fifita, a member of the Drugs Enforcement Taskforce, was talking with members of his family after a wedding in a car park in front of the old Yacht Club on Vuna Road.

4. He was then joined by the Defendant, who told Fifita he was looking for another police officer. Fifita told the Defendant he had not seen him. The Defendant then told Fifita that he had an acquaintance that deals drugs and that he has been given money to find someone willing to do what was asked of him, in exchange. Fifita asked the Defendant the name of his acquaintance. The Defendant told Fifita that the person was just a friend. Fifita then

16 MAR 2020

told the Defendant that he was still a little bit drunk and asked whether they could pick up the conversation later on in the day. The Defendant agreed. He took Fifita's cell phone number and then left.

5. At around 5 PM that day, the Defendant contacted Fifita and asked him whether he should come over to Fifita's residence to talk about what they had discussed earlier in the morning. Fifita told the Defendant not to, but that he would contact him later and tell him where to meet.

6. At around 7 PM, Fifita rang the Defendant and told him to meet at the car park area, opposite the former Yacht Club on Vuna Road. Fifita was then joined by a colleague, WPC Otuhouma. They then drove to the car park and waited.

7. Around 7:45 PM, the Defendant parked his car behind Fifita's. Fifita then got out of his car, walked to the bank of the foreshore and sat down. He was then joined by the Defendant. When the Defendant sat down, he took out a bundle of cash from his pocket and tossed it next to Fifita. Fifita asked the Defendant "what is this?". The Defendant said that it was $2,000 from his friend and asked Fifita if he could go to the police exhibit room and take some drugs because there was a shortage everywhere. Fifita told the Defendant that it would be impossible to do so because most of the methamphetamine in the exhibit room had been taken to New Zealand for testing and that if any of the small amount left disappeared, it would be found out. Fifita then told the Defendant to take the money. The Defendant said "no" and told Fifita to take the money and buy some food because the person who gave him the money would not ask for it. The Defendant then told Fifita that he should take the money and consider it a blessing.

8. The Defendant left, leaving the cash next to Fifita.

9. Fifita took the cash to his car, where he reported the matter to WPC Otuhouma. Both officers then counted the money and confirmed that it was $2,000. They then reported what had occurred to their commanding officer. They were instructed to surrender the money and to write statements about what had occurred.

10. On 14 July 2019, the Defendant was arrested and charged.

Crown's submissions

11. The Crown submits the following as aggravating circumstances:

    (a) the Defendant was a serving member of the Tonga Police at the time he attempted to bribe one of his fellow officers;

    (b) breach of trust;

    (c) his actions were intentional and calculated;

    (d) significant reputational harm to the Tonga police in having one of its own involved in corrupt conduct; and

    (e) significant harm to the broader community had the Defendant's inducement been successful and he managed to get his hands on illicit drugs.

12. The Crown identifies the only mitigating factors as the Defendant's early guilty plea and lack of any previous convictions.

13. The Crown submits that offending of this nature is rare in Tonga. So much so that only one domestic decision has been provided as a comparative sentence. In *R v Nausaimone Kitekeiaho* CR 36 of 2015, a police officer had just completed executing a search warrant at the accused's residence, and found nothing incriminating, when the accused offered the police officer $2,000 not to search the accused's mother's house because he had hidden a bag of cannabis there. Police searched the accused's mother's house and found 3.8 kg of cannabis inside her bedroom. The accused admitted to police that the cannabis belonged to him and that he had hidden it inside his mother's house. He was convicted following a contested trial. In sentencing on the bribery charge, Cato J imposed a starting point of 2.5 years imprisonment. That was reduced by six months for mitigation. His Honour then added one year from the resulting two years for the bribery charge to the possession charge resulting in a total operative sentence of three years and nine months imprisonment. Because the accused did not express any remorse and maintained his innocence despite the overwhelming evidence against him, no part of the sentence was suspended.

14. The Crown also refers to the New Zealand Court of Appeal decision in *Borlase v The Queen* [2017] NZCA 514. The accused persons there were charged with corruption and bribery of an official contrary to s.105(2) of the New Zealand *Crimes Act* which also carries a penalty of seven years imprisonment. One accused, Borlase, bribed another accused, a Council official, over a period of seven years with payments of undisclosed cash and other benefits totalling about $1.15 million to secure engineering consultancy services contracts from the Council. The sentencing judge identified five aggravating factors: the significant harm to the Council and Auckland transport as well as the broader community and tarnishing New Zealand's international reputation as a country where public corruption is virtually non-existent; the seven year duration of the offending; the nature and scale of the amounts paid; the breach of trust inherent in the parties taking advantage of a close and lengthy relationship between the contracting company and the local authorities; and the element of deception. Her Honour found that the culpability of both men was serious. She adopted a starting point of five years and nine months. A modest discount of only three months was allowed for Borlase's previous good character and personal circumstances. The resulting sentence, upheld on appeal, was five years and six months imprisonment.

15. Having regard to the range suggested by the above two decisions, that the Defendant was a police officer, and the other circumstances of aggravation referred to above, the Crown submits that the appropriate starting point here is four years imprisonment. It further submits that a discount of 12 months in mitigation should be allowed for the Defendant's early guilty plea and lack of any previous convictions, resulting in a head sentence of three years imprisonment, with no more than six months of that suspended.

16. After his arraignment, the Crown proposed to the Defendant that if he provided police with the name of his acquaintance, and if that information could be corroborated, the Crown would inform the Court of the Defendant's cooperation with authorities. As at the date of filing the Crown's submissions, it has not been provided with any information in that regard.

Presentence report

17. The presentence report provides the following information on the defendant's personal circumstances. He was born on 20 March 1986, the eighth of 10 children. He and a

younger sister were customarily adopted by his uncle and aunt. He had a 'decent upbringing'. He had a good education graduating from Liahona High School in 2003 after successfully completing Forms five and six. He continued as an untrained teacher at the school taking the music class until 2011. In 2012, he completed a teaching certificate from Tonga Teaching Institute. In 2014, he joined the police band and was later recruited as a police officer. He is an active member of the Mormon faith. He has been married for 13 years. His wife is employed in the Ministry of Fisheries. They have six children. One is fostered by his brother, two attend middle school, one is at primary school and the youngest goes to kindergarten. Family members and close friends are said to be "utterly startled" by his involvement in the criminal activity. Since his dismissal from the police force for this matter, he has been employed at Liahona High School as a music teacher. He has no health problems. During his interview with the probation office, the defendant admitted to his offending and is said to have shown deep remorse. He understands that imprisonment is inevitable.

Defendant's submissions

18. On 6 February 2020, I directed that submissions on sentence be filed by 6 March 2020. None have been filed on behalf of the Defendant. Before me today, Mr Tu'utafaiva sought to explain that default on the basis that he wanted to consider the Crown's submissions and the presentence report. In order for the Court to be able to prepare sentencing remarks in advance, particularly in the more serious or unusual cases, written submissions must be filed as directed. In the absence of directions staggering the timing for delivery of submissions, any matters of reply can be raised either by filing further submissions before the appointed date for sentencing or in oral submissions on that date. Future defaults of this kind may result in sentencing dates having to be deferred.

19. In his oral submissions, Mr Tu'utafaiva did not seek to dispute anything raised in the Crown's submissions or the presentence report. He echoed the call for some suspension based on the Defendant's early guilty plea and remorse.

20. At the conclusion of Mr Tu'utafaiva's submissions, I asked the Defendant why he had committed the offence. He volunteered that his 'acquaintance' was one Sione Filipe Jnr, whom he had met when Mr Filipe was arrested for importation of Indian hemp. The Defendant said he got to know Filipe better during his custody. When Filipe was released

on bail, the Defendant said he invited Filipe to attend a Mormon church conference. Filipe did not attend but continued to contact the Defendant. He then asked the Defendant to help him with 'a job'. He explained that Filipe gave him the $2,000 to get drugs from the Police exhibit room. The Defendant said that in agreeing to do what Filipe had asked, he realizes now he made a wrong decision, and for which, he said he received no benefit, financial or otherwise.

21. Mr 'Aho advised that the Prosecution had been made aware of the identity of Filipe which led to him also originally being charged with this bribery offence along with another drug related offence. On 6 February 2020, before me, the Crown determined not to pursue the bribery charge against Filipe due to what was then said to be a lack of satisfaction in relation to the evidence on that charge. Today, Mr 'Aho explained more fully that the reason for that decision was that the evidence available to the Prosecution, including information provided by the Defendant here, was considered insufficient to meet the corroboration requirements of s.126 of the *Evidence Act.* That being the case, I add my voice to the growing choir of judicial concern[1] that consideration of legislative reform is urgently required to reflect longstanding changes to the common law elsewhere, where the rule prohibiting convictions on uncorroborated accomplice evidence has been abolished, and to avoid risking serious miscarriages of justice.

22. Six character references have been submitted in support of the defendant from Hon. Semisi Sika (Peoples Representative for Tongatapu 2 constituency), Vailoa Kavaliku (Town Officer for the Kolofo'ou District), Taniela Vaka (Bishop of Nuku'alofa 2nd Ward), Fe'ao Teutau (Bishop of Hala'ovave Ward), Simon Havea (Bishop of Nuku'alofa 11th Ward) and Sumulea Fonua (Bishop of Nuku'alofa 9th Ward). They are all dated between early and mid-February 2020 and are mostly addressed "to whom it may concern". The said referees variously refer to the Defendant's service in a number of wards as choir practice and music director and describe him as a humble and upstanding citizen, active in the church, innovative and self-motivated, able to remain calm in the face of adversity, cheerful and enthusiastic, incomparable skills of leadership, "totally without reproach", selfless, dedicated, loyal, devoted, humble, kind and hard-working. None of the referees refer to being aware of the offending. In fact, I get the distinct

[1] For example, and most recently, see Cato J in *R v Kupu* [2018] TOSC 78.

impression that the references were provided for the purposes of obtaining employment, not for this proceeding.

Starting point

23. Pursuant to s.165(3) of the Act, the maximum penalty for the offence is a fine not exceeding $25,000, or imprisonment for a period not exceeding 7 years, or both.

24. The level of seriousness with which Parliament regards this offence is reflected in the maximum penalties prescribed. They may be compared to other corruption related offences such as s.51 of the *Criminal Offences Act* - bribery of a government servant - which carries a significantly lesser maximum penalty of three years imprisonment.

25. Given the fortunate lack of comparative sentences here in Tonga, to date, further guidance from neighbouring jurisdictions with comparable statutory provisions and penalties may be instructive.

New Zealand

26. In *R v Malyon* (CA 435/97, 18 December 1997), a sentence of two years' imprisonment was upheld where the appellant had been found guilty of the attempted bribery of a police officer by offering him $5,000 to suppress impending charges.

27. In *Field v R* [2011] 1 NZLR 784, a member of Parliament and Minister of the Crown was convicted upon a trial by jury on various counts of acceptance of bribes totalling $10,000 as a member of Parliament under s 103 of the *Crimes Act* 1961 which also carries a maximum penalty of imprisonment of 7 years and attempting the pervert the course of justice under s 117 of that Act. On the corruption charges, Rodney Hansen J determined a starting point of five years and ultimately sentenced the Defendant to four years.

28. In *R v Peter Pakau* [2014] NZHC 3020, the Defendant was a police constable who was charged and convicted with others on a range of offences in relation to conspiracy to supply methamphetamines. The offences were divided by the sentencing judge into drug related offences and corruption offences. The latter included unlawfully accessing police computer systems and providing the information to criminals, in one situation frustrating the execution of a valid search warrant. They also included charges of receiving stolen goods, accepting a bribe, conspiracy to commit burglary, conspiracy to commit theft,

conspiracy to pervert the course of justice, and conspiracy to defeat the course of justice. On the corruption offences, His Honour reached an overall starting point of five and a half years' imprisonment. After discounts for mitigation, the end sentence for that group of offending was three years and nine months' imprisonment.

Australia

29. In *Palmer v R* [1999] WASCA 253, the appellant was convicted of counselling or procuring a juvenile to offer a bribe of $645 to a police officer to not arrest him after a search found a "joint" of cannabis and the said cash. The maximum penalty under s82 of the W.A. Code was imprisonment for 7 years. He was sentenced to 2 years and six months. The sentencing judge considered that even though the offer was not accepted, the offence was serious because it undermines the functions of the Police in enforcing the law. His Honour referred to *Wignall v R* (1992) 61 A Crim R 54 where a much larger sum of $15,000 was offered to a police officer and the offender was sentenced to 3 years imprisonment and the cash was later forfeited to the Crown. On Palmer's appeal, his sentenced was reduced to 18 months.

30. In *R v Hicks and Pilarinos* [2000] VSC 236, Hicks was a former police officer convicted of bribery and other offences associated with illicit drug manufacture and trafficking. The the bribery offence was not an isolated event and was described as reflecting corruption of a high level, as not only was Hicks a long-serving, experienced police officer, he was also placed in a special position of trust at the drugs storage facility. He was sentenced to 5 years for the bribery.

31. In *R v Patison* [2003] NSWCCA 171, the respondent pleaded guilty to range of offences including soliciting bribes of $10,000 and $15,000, contrary to s.200(1) of the *Police Service Act* 1900, which carried a maximum penalty of imprisonment for seven years or a fine of $22,000, or both. On one of the occasions, the respondent and other police officers executed a search warrant in relation to possession of prohibited drugs which led to the location of a motor vehicle. The vehicle was searched and a small quantity of cannabis and related drug equipment were found. These items were seized and the owner was arrested. The respondent stated that he would confiscate the vehicle as it was associated in the offence of supply of prohibited drugs, and then solicited a bribe of $10,000 in return for not confiscating the vehicle and provided the owner with information which would assist him to "get out of" the charges at court. Overall, the

sentencing judge found the Respondent had engaged in a persistent and organised course of police corruption over almost a whole year, manifested in a number of different ways, including failing to seize or disclose all of the prohibited drugs or cash located during the execution of search warrants, soliciting and receiving bribes from offenders, sharing such bribes with other police officers, reducing the amount of drugs discovered so that offenders who had paid the bribes were charged with lesser offences, with the result that they were granted bail and were liable to lesser penalties, and not giving the full facts subsequently to the court, arranging contact between two drug dealers to facilitate their trafficking, arranging for a drug dealer to obtain bail despite a long criminal record in return for payment of $10,000, and allowing a known drug dealer to continue supplying heroin in return for weekly payments. The judge opined:

> *"To act in the manner in which the prisoner acted constitutes a complete abdication of his responsibilities and the requirements to which I have referred, and is a betrayal of the trust placed in him. It also tends to bring the whole Police Force into disrepute and makes it more difficult for honest officers to perform their functions. Bribery in particular is always to be regarded as an offence which strikes at the very heart of the justice system and must be severely punished whenever it is detected*: R v Pangallo *(1991) 56 A Crim R 441 at 443, and likewise any other act done with intent to pervert the course of justice."*

On the bribery counts, Patison was sentenced to three years imprisonment.

32. In *Wilson v Tasmania* [2004] TASSC 98, the appellant, who had a poor criminal record, was sentenced to 18 months' imprisonment, with a non-parole period of 10 months, after pleading guilty to a charge of bribery of a police officer, contrary to s83(b) of the *Criminal Code*. There, after executing a search warrant of the appellant's home, police officers seized small amounts of amphetamines and cannabis, as well as $11,775, which was in cash in a bag in the appellant's bedroom. The appellant told police officers that he was the proprietor of an automotive business, and that the money belonged to that business. The appellant was detained in custody. Later, the appellant offered $2,000 cash for the return of his money with 'no questions asked'. In dismissing the appeal, Blow J (with whom Slicer and Evans JJ agreed) opined:

> *"[10] Bribery of a police officer is a serious crime because it strikes at the integrity of our system of justice. In my view bribery warrants consideration*

> *being given to a sentence of imprisonment in all but the most trivial of cases. Further, I think that the bribery of a police officer involved in a drug investigation will often warrant more severe punishment than the bribery of an officer engaged in other duties. Drug dealers no doubt have both the means and a strong incentive to offer very substantial bribes, in cash and in kind, to police officers. The very nature of drug investigations is such that police officers involved in them have opportunities to communicate with criminals in private, to warn them of impending searches and investigations, and to interfere with the effectiveness of investigations in other ways. The salary of a police officer might often be very small in comparison to the turnover or profits of a dealer who is under investigation. Because of those facts, it is essential for the purpose of general deterrence that the courts impose substantial penalties in cases involving the corruption, or attempts at the corruption, of police officers involved in drug investigations."*

33. Finally, in *R v O'Mally* [2005] NSWCCA 166, the applicant was a senior constable of police who pleaded guilty to soliciting a bribe contrary to s 200(1) of the *Police Act* 1990 for which the prescribed maximum penalty was seven years' imprisonment and/or a fine. The offending consisted of the Applicant stopping a young driver for speeding. During the course of preparing the infringement notice, which he did not complete, the applicant said to the driver: "If you scratch my back, I'll scratch yours" and "Call (it) what you want. It's bribery and corruption, but we are doing each other a favour and I am very old fashioned". Ultimately, the bribe consisted of the applicant getting the driver to procure earthmoving work, namely excavating a swimming pool, to the value of $1,171.50 for which the applicant did not pay. The applicant had no prior convictions, had a generally good reputation within the police force, and had received commendations for police work. The sentencing judge recited some general observations from the decisions in *R v Nomchong* (unreported, NSWCCA, 10 April 1997) and *R v Pangallo* (1991) 56 A Crim R 441.

34. In *Nomchong*, McInerney J said:

> *"The police are in a position of authority and trust in the community and the public depends on them to uphold the rule of law. The crime of bribery by a police officer is one that strikes at the very heart of the justice system."*

35. Similarly, in *Pangallo*, Lee J said:

> *"The crime of bribery by a police officer therefore must be severely punished whenever detected. The police are in constant contact with members of the public and the opportunity for bribery is always great. Those circumstances themselves mean that the element of general deterrence is always a matter that must be kept very much in the forefront of the mind of a sentencing judge when a police officer is charged with an offence such as this. It is important to deter other officers who may be inclined to similar conduct."*

36. O'Mally was sentenced to imprisonment for two years imprisonment with a non-parole period of sixteen months. The appeal against sentence was dismissed.

Consideration

37. Consistent with the above curial statements condemning offences of bribery, in *Attorney General for Hong Kong v Reid*,[2] Lord Templeman described bribery as:

> *"... an evil practice which threatens the foundations of any civilised society."*

38. Having regard to the seriousness of the offence here as reflected in the statutory provision, and all the comparable or indicative sentences referred to above, in an ordinary case, say where a citizen, apprehended by police for committing an offence, in a spur of the moment act of foolishness, offers a relatively modest sum of money to a police officer not to prosecute or to 'let him/her go', I would regard an appropriate starting point as being two years imprisonment. I note that is consistent with Cato J's approach in *Kitekeiaho*.

39. However, in my view, the present case is marked by two circumstances of aggravation which make it far more serious than any 'ordinary' case and which require, therefore, a significant uplift to any 'ordinary' starting point.

40. The first is that at the time of offending, the defendant was a serving police officer. A police officer seeking to corrupt another police officer is, in my view, one of the most disgraceful acts imaginable among those in important positions of power and responsibility and who are entrusted with the safety and security of the community as a whole. As stated in *Pakau*, supra, it must have been patently clear to the defendant that what he was doing was completely contradictory to his oath as a police officer and an abuse of his position, someone whom the community expects, and is entitled to expect,

[2] [1994] 1 NLZR 1 at p 3, referred to in *Nua v R* [2001] 3 NZLR 483.

to be able to trust. Further, the offending was deliberate and calculated, involving a gross breach of trust, which (sought to undermine) the integrity of police operations and (strike) at the heart of public confidence in law enforcement. For these matters, the ordinary starting point is increased by one year.

41. The second circumstance of aggravation is that the object of the offered bribe was not to seek to avoid arrest or prosecution, but to illegally obtain illicit drugs which had been seized by police from other operations. That purported plan by which it was presumably intended to recirculate those drugs within the community was both insidious and reprehensible. Further, while it is not known what exactly, in terms of class and quantity of drugs, was expected for the bribe, or whether it was just intended as a start for ongoing 'co-operation', the sizeable sum of $2,000 given without any agreement from Fifita to become involved, strongly suggests it was potentially part of a much larger and more lucrative illegal enterprise. For this factor, I increase the starting point by a further one year.

42. Accordingly, for the reasons stated, I arrive at the same starting point submitted by the Crown, namely, four years imprisonment.

Mitigation

43. By way of mitigation, I take into account the defendant's early guilty plea, previous good record and reported remorse.

44. In terms of level of culpability, I take into account from the facts stated that this was a single incident where the Defendant was not the prime mover in the plan described above but was more of a middleman or go-between in delivering the offer and cash to Fifita on behalf of the defendant's so-called "acquaintance". The Defendant's explanation for his involvement left unclear the extent to which he was involved in hatching this plan; or, had it been successful, the extent to which he might have been further involved.

45. For the above circumstances of mitigation, I reduce the starting point by 12 months.

46. Accordingly, the Defendant is sentenced to three years imprisonment. I consider that sentence to be not only appropriate, but necessary, to fulfil the dominant requirements of sentencing in a case such as this: denunciation and deterrence.

Suspension

47. In considering whether to suspend all or part of the sentence, the Court is obliged to have regard to the interests of the Defendant and the interests of the wider community in his rehabilitation: *Rex v Tau'alupe* [2018] TOCA 3 at [15].

48. I am somewhat ambivalent about the Defendant's prospects of rehabilitation and whether any good will come from a period of suspension. On the one hand, on the basis of the references submitted, the Defendant is a reasonably well-educated, devout, family man who has contributed to, and appears to be highly regarded by, his community. On the other hand, he consciously committed the offence in full knowledge of his position in society as a police officer, the damage to the community that could have been done if his bribe had been accepted and the high likelihood of being imprisoned (and impact of that on his family) if, as here, the bribe wasn't accepted. As I have said, his explanation for his actions leaves one at a loss to understand such diametrically opposed portrayals of character and behaviour. It follows that one is also at a loss in trying to form any firm view of his prospects of rehabilitation.

49. On an assessment of the considerations discussed in *Mo'unga v R* [1998] Tonga LR 154:

    (a) the Defendant is not young;

    (b) he does have a previous good record;

    (c) his remorse combined with family and community support offer some basis for optimism that he might take any opportunity provided by his sentence to rehabilitate himself;

    (d) the only possible diminution in culpability is that he acted on behalf of his 'friend'; and

    (e) he has co-operated with the authorities.

50. I also have regard to the following other relevant factors:

    (a) the need for effective deterrence: *Rex v Misinale* [1999] TOCA 12;

(b) as a former police officer, the Defendant's imprisonment may impose greater hardship because he will be at risk from other prisoners: *R v Hicks and Pilarinos* [2000] VSC 236. Whether that requires him to be placed in protective custody (if available) will be a matter for the Commissioner of Prisons. Again, this is a risk the Defendant must have considered when he decided to commit the offence;

(c) imprisonment will inevitably impose significant hardship on the Defendant's immediate family. However, as the Court of Appeal has observed in the past, 'that unfortunately is an all too frequent consequence of criminal offending'.[3] Further, 'such hardship cannot be an overriding mitigating factor in cases where the objective gravity of the offences and the presence of aggravating factors call for a custodial sentence': *Rex v Vake* [2012] TOCA 7 at [14]

51. On balance, I am satisfied that the Defendant should be given some opportunity and incentive to continue and demonstrate any rehabilitation. Therefore, I will order that the last 12 months of the sentence be suspended on terms and conditions which I will set out below.

Sentence

52. The Defendant is convicted and sentenced to three years imprisonment.

53. The final 12 months of the sentence is to be suspended for a period of two years on conditions that, during the said period of suspension, the Defendant:

(a) not commit any offence punishable by imprisonment;

(b) be placed on probation;

(c) report to the probation office within 48 hours of his release from prison;

(d) reside where directed by his probation officer; and

(e) undertake and complete, within the first year of his probation, a course on drug awareness as directed by his probation officer.

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[3] *R v Motulalo* [2000] Tonga LR 311

54. If the Defendant fails to comply with any of the above conditions, he may be required to return to prison to complete the balance of his three year term.

55. I order that the $2,000 offered by the Defendant be forfeited to the Crown.

NUKU'ALOFA
13 March 2020

SUPREME COURT TONGA

M.H. Whitten QC
LORD CHIEF JUSTICE