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

CR 138 of 2019

BETWEEN:

R E X

-Prosecution

AND:

TEVITA TALIA'ULI FATONGIATAU

-Accused

VERDICT

BEFORE: JUSTICE CATO

Counsel: Ms. L. Fakatou for the Prosecution
Accused – Self represented

Date of Verdict: 10 July 2020

1. The accused, Mr Tevita Fatongiatau, stood trial before me commencing on the 6th July 2020. The charges he faced were;
 - i. Unlawful possession of illicit drugs namely a class A drug methamphetamine on or about the 29th October, 2018 at Kolofo'ou;
 - ii. Unlawful possession of a class B drug namely cannabis on or about the 29th October, 2018 at Kolofo'ou.

10 JUL 2020
JH

2. The trial proceeded until the late afternoon after the Crown case had concluded. The accused elected to give no evidence but indicated that he wanted the woman who had been in the motel room with him on the evening he had been arrested to give evidence. The case was adjourned until the following morning Tuesday the 7th July at 10am. The accused had his bail extended but with an additional condition as to curfew. He did not answer his bail and appear at his trial which was adjourned until 10am on Friday 10th July at 10am. The accused had appeared earlier that morning before the Chief Justice on another matter. A warrant was issued for arrest.

3. I am satisfied beyond any reasonable doubt that the prosecution has made out its case on both counts. It was clear that at about 11.30pm on the 28th October 2018, the police had received information that the accused was at Angela's guest house and was in possession of illicit drugs, and was dealing in those drugs there.

4. In the early hours of the morning, police executed a warrantless search. During the course of that search, police saw the accused throw a bag out of the window which was retrieved by another police officer waiting below. This contained one sachet of cannabis and cash in the sum of \$355.00. They also retrieved about 80 small packets or bags of cannabis which were in the toilet, as well as cannabis plant material and a large number of small plastic bags. Also located was a weight scale and a test tube. Beside the bed in a cigarette packet was a sachet containing white powder which I am satisfied was the residue of methamphetamine that the accused, in a record of interview, admitted to smoking methamphetamine, and flushing cannabis that had been in the bag down the toilet. He said that was so that police would not find it. He admitted possession to both cannabis and ice or methamphetamine, in circumstances where I can safely rely on his admission that the substances were illicit drugs, cannabis and methamphetamine.

5. I am satisfied the weight of the cannabis was 159.13 grams and methamphetamine 0.34 grams.

6. There being no further appearance of the accused in answer to his call on the 10th July 2020 I convict him of both counts in his absence. When he is arrested on warrant for failure to appear he is to be remanded in custody and brought before me for a sentencing date to be fixed.



C. B. Cato
JUDGE

NUKU'ALOFA: 10 July 2020