

Sean + He

IN THE SUPREME COURT OF TONGA

CRIMINAL JURISDICTION

NUKU'ALOFA REGISTRY

CR 128 of 2020

REX

-v-

SIONE SONGO'IMOLI

BEFORE HON. JUSTICE NIU

- Counsel** : Mr `Inoke Finau for the Crown.
The accused for himself.
- Plea** : Not guilty but convicted by Justice Langi after trial.
- Report** : by Probation Officer, Patelesio Pale, on 19 April 2021
- Submissions** : by Crown on 26 April 2021.
: by the accused in Court on 3 and 13 May 2021.
- Sentencing** : 21 May 2021

SENTENCING

Offence

[1] Sione Songo'imoli, you have committed the offence of possessing methamphetamine when the police found 0.08 gm of methamphetamine in a can which you were carrying at Hofoa on 19 April 2019. They also found 3 ice smoking pipes and \$191 in cash on you.

- [2] You denied that you committed that offence but Justice Langi who tried you found that you did and convicted you of it and you now appear before me for sentence for that offence.
- [3] You were one of 4 people who were tried and convicted in a joint trial before Justice Langi. You had all been arrested at the home of Pangi Puloka at Hofoa on the night of 19 April 2019.

Previous convictions

- [4] Crown counsel says that you have 5 previous convictions, only one of which, the last one, was for possession and importation of illicit drug on CR 222/2007 and you were sentenced to 3 years imprisonment with the last 6 months being suspended for 2 years, for the possession and 2 years 6 months for the importation. The record does not show what the illicit drug was, but the Probation Officer says that you told him that it was cannabis.

Probation report

- [5] The officer says that you are 40 years old, that you were married before and had 2 children, and then you married your present wife and you now live with her in Popua with 3 children with her. He says that you were in the Defence Force for 3 years and you left it in 2003.
- [6] He does not say what work it is that you do for a living but he says that you told him that after you served your prison sentence and you came out in 2012, you then associated with Pangi Puloka. You told him that in just last year you were caught with 1 pack of drug and that you were sentenced in the Magistrate's Court to 3 months imprisonment.
- [7] He says that you told him that you have truly repented and have sworn to keep a law abiding life and he says that it would help you if you were to attend and complete the drug awareness course of the Salvation Army.

Crown submissions

- [8] Crown counsel says that the appropriate sentence for your offence is 12 months imprisonment and that another 6 months be added to it to make 18 months imprisonment altogether because of your previous convictions for drugs. He says that you do not qualify for any suspension of that sentence at all.

Your submissions

- [9] You appeared before me in Court on 3 May 2021 and told me that you live with your mother and with your wife and 3 children, that all 3 children are at school. You told me that your livelihood is stenciling or printing of fabric for clothes and that you work at home earning about \$250 per week and that you have been doing that for 2½ years. You told me that you did use drugs but that that ended when you were arrested on 19 April 2019. That does not appear to be correct because you told the probation officer that you were caught last year with drug and were sentenced in the Magistrate's Court for 3 months imprisonment.
- [10] I asked you and you agreed with me that your income from the printing work was sporadic and unreliable, and that that was why you had to resort to selling drugs. I then required that you find an honest job to support your family. Ten days later, you saw me in Court again and handed to me a written contract of employment with Takau & Sons Co. Ltd to be employed as assistant foreman for 2 years at a monthly salary of \$1,200. That equals to about \$300 per week and it would be a reliable and regular income for your family.

Consideration

- [11] I agree with Crown counsel that in accordance with sentences which were given in the 4 cases to which he referred, your sentence should be 1 year 6 months. As to suspension of that sentence, I am persuaded by the evidence which you have provided, namely your employment contract, that you are likely to make use of the opportunity offered by a suspension of your imprisonment sentence to rehabilitate your life to be a law abiding person.

[12] I also consider that you would benefit from undertaking the drug awareness course of the Salvation Army. I also consider that it is only fair that you serve community service to make amends to the community which you harmed by your activities with illicit drugs. Finally, I consider that the suspension be for the longest period available.

Sentencing

[13] Accordingly, I sentence you as follows:

For possessing 0.08 gm of methamphetamine at Hofoa on 19 April 2019 for which you are convicted in CR128/2020, you are sentenced to 18 months imprisonment but which shall be suspended for a period of 3 years from today upon the following conditions:

- (a) That you serve 40 hours community service as directed by the Probation service;
- (b) That you undertake and complete the drug awareness course of the Salvation Army; and
- (c) That you will not commit an offence punishable with imprisonment with the period of suspension of your sentence.

[14] I order that the sum of \$191 ^{and all utensils} which were found in your possession at the time of your said offence is forfeited to the Crown under S.33 (3) of the Illicit Drugs Control Act.

[15] I also order that the drug in respect of which you have sentenced be destroyed by the police forthwith.

Nuku'alofa: 21 May 2021



A handwritten signature in blue ink, appearing to read "Niu J", is written over the seal.

Niu J
J U D G E