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

CR 131 of 2021

REX

-v-

Samuela FIEFIA

SENTENCING REMARKS

BEFORE : THE HONOURABLE COOPER J

Counsel : Ms. 'E. Lui for the Prosecution
Defendant in person

Date of sentencing: 9 September 2021

1. Mr. Fiefia pleaded guilty to a count possession 1.19 g methamphetamine contrary to section 4 (1)(a) (iv) Illicit Drugs Control Act; possession 4.27 g of cannabis section 4 (1)(a) (i) Illicit Drugs Control Act and possession utensils, section 5A of the Act.
2. On 29th March 2021 at approximately 1400 hrs police, acting on information, raided Mr. Fefia's home in Touliki, Ma' ufanga, Tongatapu.
3. He was at his home at the time and caring for a baby. When the police attending he grabbed the infant and tried to run from them. He was caught. Then a search of his address uncovered the following items:
 - i. 1 test tube;
 - ii. 2 straws;
 - iii. One big pack containing 2 packets of suspected methamphetamine;
 - iv. One brown bag containing the following;
 - v. 1 packet of suspected methamphetamine;
 - vi. 1 packets of cannabis;
 - vii. 12 empty packets;

- viii. AUD\$20.00;
- ix. 1 gold necklace; and
- x. TOP\$1.50
- xi. 1 straw; and
- xii. 1 square black bag containing several empty packets.
- xiii. 1 weighing scale;
- xiv. 1 black and brown bag containing TOP \$977.10; and
- xv. 1 test tube.

4. And, from his car :

- i. One bag containing;
- ii. 7 empty packets; and
- iii. 2 straws
- iv. One test tube.

5. Mr. Fiefia chose not to answer any of the police's questions.

6. He pleaded guilty and the case was adjourned for a pre-sentence report and submissions.

7. The letter from the probation officer dated 31st August 2021 indicates that he did not attend for his appointment, despite clear instruction and assistance from probation.

8. Following the amendment to Illicit Drugs Control Act the maximum sentence for having in ones possession over 1 g of a class A drug is up to life. possession of over 0.25 g is to be treated as being for supply.

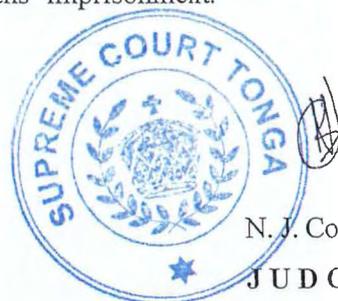
9. In the event it is quite clear from the surrounding facts that Mr. Fiefia was engaged in possessing these drugs for the purpose of supply.

10. The scales, the money, the collection of empty 'dealer' bags all point to the accoutrements of a drug dealer.

11. This is a pernicious trade and the courts will always mark this behaviour with the appropriate sentence.

12. A comparable case that deals with sentencing when the police discover a lower quantity of methamphetamine, in the context of supply, is *R v Hufanga* CR 211/2020; where Lord Chief Justice Whitten QC considered the correct starting point was 2 ½ years imprisonment for 2.13 g of methamphetamine.
13. In that case notice was taken also of *R v PMP* [2020] TOSC 112, possession of 2.12 g methamphetamine attracted a starting point of 2 years' imprisonment.
14. Following this guidance I set appropriate tariff as one of 12 months' imprisonment.
15. Because of his early guilty plea this I discount by 30 %; to make a sentence of 8 months' imprisonment on the head count.
16. All the money is forfeited. The drugs and paraphernalia forfeited and destroyed.
17. Mr. Fiefia has an extensive record, albeit not for like matters. He was convicted in 2014 for one for domestic violence and once for indecent assault. Then in 2015, 2018 and right through 2019 multiple offences of domestic violence and also house breaking; latterly an offence of damaging property. A variety of disposals have been offered but there appears to be no sign that he has heeded these warnings. Then to miss his probation report entirely suggests a complete lack of remorse, though today he tells me that was because he was arrested in regards to failing to attend the Magistrates' court for a matter of possession of utensils.
18. Accordingly I come to the view that no part of his sentence should be suspended.
19. Count 2; 5 months; count 3; 3 months, both concurrent to count 1.
20. This offence breached his suspended sentence for domestic violence. Accordingly I activate that sentence and the 6 months' imprisonment will run consecutive to this sentence.
21. That gives an overall sentence of 14 months' imprisonment.

NUKU'ALOFA
9 September 2021



N. J. Cooper
JUDGE