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

CR 23 of 2020

REX

-v-

Viliami Malolo E Hau TALIVAKAOLA

SENTENCING REMARKS

BEFORE : THE HONOURABLE COOPER J
Counsel : Mr. J. Fifita for the Prosecution
 Mr. S. Tu'utafaiva for the defendant
Date of Sentencing: 15th October 2021

1. The defendant pleaded guilty to two offences. Count 6 was in relation to importing without a licence 14,928 .22 rounds of ammunition contrary to section 95 Customs and Excise Management Act. Count 7 was for an offences of possessing without a licence 131 rounds of .22 ammunition contrary to section 4 (1) and (2) (b) Arms and Ammunition Act.
2. The items in Count 6 were imported into Tonga from the United States of America and were hidden in a cargo box. That had a false bottom and also inside was a speaker, and in that was also concealed more ammunition.
3. This importation was part of a bigger illegal importation of 6 riles and a further 450 rounds of ammunition. The Crown have accepted the pleas the defendant offered and I do not therefore consider the wider case against this defendant.
4. He was arraigned on 4th October and pleaded guilty to those counts.

5. The other counts will be left to lie on the file not to be proceeded with unless leave sought from Supreme Court or Court of Appeal.
6. The maximum sentence for the offence in count 6 is 10 year's imprisonment and, or a fine of \$100,000.
7. For possession ammunition without a licence, 5 year's imprisonment.
8. I have considered the following cases :
9. *R v Fanguna*; CR 229/2020. The defendant imported a .22 rifle and had no licence to do so. He pleaded guilty. He was fined \$500 with a month imprisonment in default.
10. *R v Latu*; CR 89-90/2020. The defendant imported 425 rounds of .22 ammunition without having the required licence to do so. He was convicted after trial and fined \$300.
11. *R v Taufu*; CR 143/2020. The defendant imported 2 air rifles and 5345 pellets without the required licence. He pleaded guilty and was fined \$500 and \$200 respectively.
12. I have also carefully considered the pre sentence report and references.
13. Mr. Talivakaola has not been in trouble before. He pleaded guilty to these offences.
14. The report and references shines a light on the fact that this man has positive good character and has worked caring for the community of Neiafu and is described as having "devoted his life to the well-being of others", which he obviously has by undertaking tasks like cleaning abandoned houses and helping in the Government Primary Schools.
15. Taking all this into account along with his impressive work reference I judge that for count 6 he shall pay a fine of \$500 and for Count 7 a fine of \$150.
16. He shall have 6 months to pay and a month imprisonment in default.
17. The guns and ammunition are to be forfeited.

NEIAFU

15 October 2021

