

CRIMINAL JURISDICTION

NUKU'ALOFA REGISTRY

REX

-V-

HEPETI VAKA

BEFORE THE HON. JUSTICE SHUSTER

HAVING HEARD - Crown Counsel, and from the defendant in person.

The defendant appears for sentencing - having pleaded guilty on arraignment on 20th January 2012; to an indictment, alleging two counts of HSB and theft – of property valued at \$8,000.00, and one count of obtaining money by False Pretences

On 20th January 2012 the case was adjourned for the preparation of a pre-sentence report to Friday 10th February 2012. The defendant was remanded on conditional bail for the preparation of that pre-sentence report

It should be noted the defendant is a first time offender and to his credit he had always fully admitted his part in offending - to the police during interview and to this court by his early guilty plea.

THE BRIEF FACTS

The prosecution says - that on 01st October 2011 the defendant went with a co-accused in his vehicle and stole tongan mats valued at \$8,000.00 some of those Tongan mats were used to secure a loan valued at \$1,100.00 the defendant spent the money on personal needs including travel to Vavau.

On 10th February 2012 the defendant appeared for sentencing. Having considered all the facts of the case the court notes the defendant has apologized to the complainant and some of the property has been recovered

I told the defendant my starting point for this type of offending- involving a person invading someones home and stealing valuable artifacts from inside a home would be a sentence of between 24 -30 months imprisonment BUT that type of sentence would be based on a NOT guilty plea.

I told the defendant there are now - far too many housebreakings being committed now in the Kingdom of Tonga, and my court intends to take a tough approach to sentencing - even for first time offenders.

Considering all the facts - the defendant is sentenced as follows:-

Count 1 – The defendant is sentenced to **THIRTY MONTHS** in prison – however the whole sentence is suspended for the next **THREE YEARS** conditional upon the defendant keeping the peace and being of good behaviour and committing no further offending during the period of the suspension of the sentence of imprisonment.

Count 2 – The defendant is sentenced to **THIRTY MONTHS** in prison – however the whole sentence is suspended for the next **THREE YEARS** conditional upon the defendant keeping the peace and being of good behaviour and committing no further offending during the period of the suspension of the sentence of imprisonment. Count two is concurrent to count one.

Count 3 – The defendant is ordered to perform **240 hours of voluntary CSO**, cleaning up the beaches and tidying the roads – and ditches - pulling weeds and keeping the drains clean on VUNA Road as ordered by the Probation Service

I certify I have warned the defendant about committing any further offences and of the consequences of him failing to complete his 240 hours of Community service. The defendant indicated he understood the

warnings. This is to be a deterrent sentence, applying the principles enunciated in the case of - **Crown –v- Cunningham**

**A Copy of my sentencing remarks are to be served on the defendant
and the Probation Service**

DATED 10th February 2012

JUDGE