

CRIMINAL JURISDICTION

NUKU'ALOFA REGISTRY

REX

-V-

MAIKA PILIVI

BEFORE THE HON. ACTING CHIEF JUSTICE SHUSTER

HAVING HEARD - Crown Counsel, Mr Tuitafavia and from the defendant in person. For various reasons the case was adjourned from 2009 until the defendant appeared before me on 13th December 2011, where at a pre trial conference to set a date for a jury trial the defence indicated the defendant wished to change his original plea of Not Guilty - to a plea of Guilty. In open court it was ascertained the defendant had been placed under no pressure to change his plea to guilty and he was re-arraigned and convicted.

On entering his guilty pleas, on re-arraignment, the facts were opened and agreed, and the case was adjourned for the preparation of a Pre Sentence Report and the defendant was released on bail to be sentenced on 19th January 2012 @ 14.00.

BRIEF FACTS

The brief facts are, that the defendant was employed as an exhibits officer at the Central Police Station, where he was a serving police officer. According to the prosecution the defendant, on three different occasions, stole cash which was held by the police as evidence in the police exhibits store. The cash sum stolen amounts to \$2,300.00. The prosecution say to his credit ,the defendant has repaid the sum of \$1850 to the police .

On his arrest the defendant fully admitted the offences to the CID officers who investigated the case, and in his police record of interview charge and confession statements.

Having considered all the facts of the case, and considering the fact that the defendant eventually pleaded guilty. and having heard from defence counsel and from the defendant in person and, considering this crime was obviously planned and it was a premeditated theft - by a person working in the Ministry of Police as a police officer - it is very serious.

Then this court is of the opinion that this is a clear breach of trust case, it is a case involving corruption at a high level, and even with a guilty plea the defendant must be dealt with severely, in order to deter others from committing like crimes.

I told the defendant in open court that my starting point for a police officer who steals money from the police exhibits room where he was the officer in charge, is a sentence of four years imprisonment - even on a timely guilty plea.

Had the defendant pleaded Not Guilty and been found Guilty after a jury trial, then I would likely have imposed a sentence of between 5/6 years imprisonment - to deter other public servants from committing such serious crimes.

Having heard the facts and from the defendant in person and because a deterrent sentence is warranted, and applying the facts to this case.

Then the defendant is sentenced as follows:-

Count 1 - The defendant is sentenced to **FOUR YEARS** in prison

Count 2 - The defendant is sentenced to **FOUR YEARS** in prison

Count 3 - The defendant is sentenced to **FOUR YEARS** in prison

Count 4 - The defendant is sentenced to **FOUR YEARS** in prison

All sentences are – to be served concurrent.

As the defendant is a first time offender the court, has then gone on to consider if it can suspend any part of the sentence which has just been passed. Because the defendant has repaid \$1850.00TOP and because the defendant has lost his employment ,his good name, and he is unlikely to be able to gain employment in a similar vocation.

The court has decided to suspended **TWO YEARS** of the sentence which it has just passed, 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 which starts from todays date 19th January 2012.

The court warned the defendant about committing any further offences during the period of his suspended sentence.

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

**A copy of this order is to be served on the defendant the Acting
Police Commissioner and the Prison Service**

TOTAL PERIOD OF IMPRISONMENT TWO YEARS FROM TODAY

DATED 19th January 2012

JUDGE