

IN THE SUPREME COURT OF TONGA

CR 151 OF 2011

CRIMINAL JURISDICTION

NUKU'ALOFA REGISTRY

REX

-V-

MANGISI MAFILE'O

BEFORE THE HON. JUSTICE SHUSTER

HAVING HEARD - Crown Counsel, from Mr. Pifeleti as his counsel and from the defendant in person.

The defendant appears for sentencing - having pleaded guilty on arraignment on the 08th August 2011; to an indictment, alleging [1] two offences of HSB and [2] two offences of theft allegedly to have been committed on 17th March 2011 and 11th May 2011

On arraignment on 08th August 2011 the defendant was told he would be given full credit for his early guilty plea and, the case was adjourned for the preparation of a PSR and, the defendant was remanded on bail with a condition that he co-operates in the making of the PSR.

It should be noted that the defendant was at the time of his arraignment on 08th August 2011 the defendant was a first time offender

On 02nd September 2011 the defendant appeared for sentencing..

Having considered all the facts of the case, including the contents of the PSR and considering the fact that the defendant pleaded guilty at the first available opportunity and, the fact that the defendant had fully co-operated with the police and with this court – and, having heard from the defendant in person and noting that at the date of his sentence - the defendant is NOT

a first time offender – in that he has admitted committed another offence in the Magistrates Court - since committing these four offences charged in the indictment.

The Court heard that the defendant parents have paid a fine of \$150.00 imposed by the lower court to be paid immediately for an offence of assault on a member of the public when he threw a rock at a Chinese person. It transpired the was given no time to pay his fine and he has served seven days imprisonment - before the \$150.00 fine was paid in full.

The defendant is sentenced as follows:-

Count 1 – The defendant is sentenced to **TWO** years in prison – **BUT** that term is suspended for 3 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 this sentence of imprisonment

Count 2 – The defendant is - ordered to complete 120 hours Community Service cleaning up Vuna Beach Road from the Black Pearl to the Palace and he is further ordered to enroll in the Salvation Army Drugs and Alcohol Awareness Course and he is to complete the Drugs and Alcohol Awareness Course and also the Life Skills Course as ordered by the court.

Count 3 – The defendant is sentenced to **TWO** years in prison – **BUT** that term is suspended for 3 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 4 – The defendant is - ordered to complete 120 hours Community Service cleaning up Vuna Beach Road from the Black Pearl to the Palace and he is further ordered to enroll in the Salvation Army Drugs and Alcohol Awareness Course and he is to complete the Drugs and Alcohol Awareness Course and also the Life Skills Course as ordered by the court.

I certify that I have in open court warned the defendant about the consequences of committing any further offences during the operational

period of the suspended sentence – and of failing to complete his 120 hours of CSO or of failing to enroll in, and or complete the SA course as ordered.

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

N>B> A copy of this order is to be served on the Probation Service - FORTHWITH.

DATED 02nd SEPTEMBER 2011



Shubert S.
JUDGE