

Crown / Moala

28/09/11

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

CR 15 OF 2011

REX
-V-
MULA 'AFEMUI

BEFORE THE HON. JUSTICE SHUSTER

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

The defendant appears for sentencing - having pleaded guilty on arraignment on 04th March 2011; to an indictment, alleging [1] two offences of HSB and [2] two offences of theft, allegedly to have been committed on 20th June 2010 and 10th August 2010 - as per the summary of facts

On arraignment on 04th March 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 to 29th March 2011.

It should be noted that the defendant was at the time of his first arraignment on 04th March 2011 - a first time offender. On reading the PSR and looking at all the facts I decided to defer the sentencing of this matter to 02nd September 2011 at 15.00. The defendant was released on his own recognizance

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

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available opportunity and, the fact the defendant 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 was a first time offender –and that he has not reoffended

The defendant is sentenced as follows:-

Count 1 – The defendant is sentenced to **EIGHTEEN MONTHS** 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 the childrens play area on Vuna Road 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 **EIGHTEEN MONTHS** 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 the childrens play area on Vuna Road 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.

The sentences are concurrent and they are to start from today. I certify I have in open court warned the defendant about the consequences of committing any further offences during the operational period of this suspended sentence – and the consequences of failing to complete his 120 hours of CSO or of failing to enroll in, and or completing the SA courses 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



Shurster
JUDGE