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

CR 114 of 2010

*Crown
Lutui
(CLOSED) -*

REX

V

SOLOMONE FONOKALAFI

BEFORE THE HON. JUSTICE SHUSTER

Defendant appears for sentence with his co-accused on file CR113/2010.

HAVING HEARD all the facts this defendant took the Law into his own hands when he carried out a Drive-by shooting in Nuku'alofa on the 29 May 2010 after being ejected from a club.

He was the one who pulled the trigger and he shot his victim with a .22 rifle in the chest. He suffered some injuries. He is a first time offender. I told him the seriousness of the offence he had committed and read the comments of Lord Malcolm to him in the case of R v Collin when he said you participated in the deliberate discharge of a firearm in a public place where members of the public had gathered. "All involved should be dealt with severely".

I told him my starting point for such a crime for a guilty plea was a sentence of 5 years in prison.

HAVING HEARD mitigation he was a first time offender. He admitted the offence to the police and this Court and he had been attacked and set upon

by the bouncers at the club but that was no excuse to take the Law into his own hands. He should have gone to the police. Accordingly he is sentenced as follows:

IT IS ORDERED THAT:

1. Count 1 – 5 years in prison last year suspended for 1 year.

Count 2 – 3 years in prison (concurrent)

Count 3 – To attend drugs & alcohol awareness course on completion of his sentence run by the Salvation Army and be on Probation for one year and to voluntarily attend for psychiatric treatment if it is thought necessary.

2. He is not to be in possession of any arms or ammunition for the rest of his life without the leave of this Court.

3. The firearms are forfeit to the Crown.

4. He is to serve 4 years from 10 August 2010.

DATED: 19 November 2010

