

S/General

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

*MA
29/10/07
Copy to
Judge
file*

CR 55 of 2006

R E X

-V-

PANGI PULOKA

BEFORE THE HON. JUSTICE ANDREW

Counsel : **Mr. Little for the Crown
and Mr. Tu'utafaiva for the
accused.**

Dates of Hearing : **28 September 2007**

Date of judgment : **3rd October 2007**

J U D G M E N T

The accused was found guilty following his trial on one count of importing an illicit drug contrary to S.3 of the Illicit Drugs Control Act 2003 and one count of possession of an illicit drug contrary to S.4 (A) of the Illicit Drugs Control Act.

The offences carry maximum terms of a fine of \$1,000,000 or imprisonment for a term not exceeding 30 years or both and secondly to a fine not exceeding \$750,000 or imprisonment for a term not exceeding 25 years or both.

The particulars alleged that, "he on or about the 4th of February 2006 at Fua'amotu did knowingly without lawful excuse import one large plastic bag containing cannabis weighing 1175 kg and

"...that he, on or about the 4th of February 2006 in Fua'amotu did knowingly without lawful excuse have in his possession one large plastic bag containing cannabis weighing 1175 kg."

The facts disclosed that on this day, the 4th of February 2006, the accused flew from Fiji to Tonga and he brought the cannabis with him as luggage. It was soon detected after his arrival. The accused's defence was that he had been given this parcel by an unknown woman whilst he was checking in his luggage at Fiji. That explanation was not accepted and he was duly convicted of both charges.

The accused is aged 34. He is not a first offender for he was convicted in 1998 on one count of possession for which he received 12 months good behaviour bond or 12 months suspended to be imposed by the probation service. But much more significantly in 2001 he was convicted for possession of cocaine for which he received a sentence of 6 years imprisonment. He was released on pardon on the 10th August 2005 after serving approximately 4 years. He therefore re:offended within 6 months of his release.

This is, in all the circumstances, a serious offence which can only attract a sentence of full time imprisonment.

The accused continues to deny his guilt and there is no remorse expressed.

Subjectively the accused is aged 34. He was married with 2 children but that ceased when he received the sentence of 6 years imprisonment in 2001. His family now live in New Zealand. The accused was educated to Form 5 and was a farmer in the past. He has been described as a drug dealer.

The disturbing element of this offence is that the accused quickly re:offended upon his release and has failed to learn any lesson from his previous offending and the offence of importing drugs is one of the most serious offences known to the Criminal Law which is reflected in the maximum penalty available of 30 years imprisonment.

The previous offence of possession involved the drug cocaine. That is commonly regarded as a more "hard" drug than cannabis. But this offence is the more serious in that it is one of importation and it is of course a second serious offence.

In all of the circumstances I propose to pass the same sentence as in the past. I can see no valid reason for the suspension of any of that sentence.

Would you stand up please.

For the offence of importation of drugs you are sentenced to imprisonment for 6 years.

For the offence of possession of drugs you are sentenced to 3 years imprisonment. Both sentences are to be served concurrently.

NUKU'ALOFA: 3 October 2007

