

**IN THE HIGH COURT OF NEW ZEALAND  
DUNEDIN REGISTRY**

**CRI 2009 012 004390**

**CRI 2009 012 004352**

**REGINA**

v

**TEHURA QUINTEN WIHONGI  
KORREY TEEATI COOK**

Hearing: 17 December 2009

Appearances: L Denton for Crown  
J Westgate for Mr Wihongi  
C D Savage for Mr Cook

Judgment: 17 December 2009

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**REMARKS ON SENTENCE OF CHISHOLM J**

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[1] Tehura Quinten Wihongi and Korrey Teeati Cook, you have both pleaded guilty to one count of possession of cannabis for supply and a count of selling cannabis. As you are probably aware, the maximum sentence in relation to both of those charges is eight years imprisonment, so they are very serious charges.

[2] On 19 June this year the police executed a search warrant at a storage facility and at both your homes. At the storage facility they found 24 snaplock bags containing an ounce of cannabis. In other words, there was a total of 24 ounces of cannabis found at the premises. They also found an extensive array of equipment commonly used in the cultivation of cannabis. At your address, Mr Cook, they

found \$340 in a vehicle. You admitted, Mr Cook, that you intended to sell the cannabis found at the storage facility and that six pounds of cannabis had been sold since 1 November 2008. In other words, over a period of around about seven months.

[3] Mr Wihongi, you admitted sourcing and supplying cannabis in conjunction with Mr Cook. You admitted selling eight pounds since November 2008. According to the Crown's calculations, Mr Cook, the cannabis that you sold would have fetched somewhere in the vicinity of \$28,000. There is, of course, no suggestion that that was a net profit to you. And in your case, Mr Wihongi, the Crown calculation is about \$38,000 gross.

[4] In each case I approach the sentencing on the basis that the lead charge is the charge of selling cannabis. There is no dispute that your offending falls within band two of a case called *R v Terewi* [1999] 3 NZLR 62. That indicates a starting point for the offending of between two and four years imprisonment.

[5] Now I want to speak to you individually and although your counsel have addressed in a different order, I will start with you Mr Cook.

[6] You are 33 years of age. You are in a relatively long term relationship and you have one child. On the bleak side you have 63 previous convictions, mainly relating to property and violence. As Ms Denton said, there are a number of convictions, however, that do relate to offending of this nature. In 2005 you were convicted of possession of cannabis and also possession of cannabis for supply. In 2002 you were convicted of cultivating cannabis and the year before you were convicted of possession of cannabis. I think it is true to say that on each occasion you received what was a relatively lenient sentence.

[7] Until the year 2000 you were involved with the Mongrel Mob and no doubt that accounted for a lot of the offending. It is to your credit that you severed ties with that gang in 2000. From that time you seemed to take positive and extremely worthwhile steps towards your own rehabilitation. I have read the various references that were provided and it is apparent that your involvement in sport and in assisting

others was benefitting not only others but also yourself. You were given positions of relative trust and you became respected. But unfortunately you have blown it now. Undoubtedly you realise that and I note the reference in the probation officer's report that you could see it in the eyes of the people who previously trusted you. I was informed this morning that you now have employment with a security group, and a letter from your employer was handed to me.

[8] I am going to start with two years and nine months imprisonment for you. That reflects that the offending was over a relatively long period and the quantity was high. I agree with Ms Denton that there should be an uplift, or increase, to reflect your previous offending. I add three months for that, which means that I then arrive at three years imprisonment. You were frank with the police, you pleaded guilty at the earliest possible opportunity and you are entitled to a full credit for that. I allow a one-third discount which brings the sentence to two years imprisonment.

[9] As you will know, that brings the sentence within the range for home detention. The question of home detention was considered by the probation officer who concluded that you are eligible for electronically monitored home detention. It is recommended by the probation officer, but opposed by the Crown.

[10] Ms Denton made some very good points in opposing home detention. She noted that there was evidence that some of the offending took place at your home. She also suggested that your previous record counts against home detention.

[11] But I have to balance those matters against the matters that have been referred to your counsel's submissions, both written and oral. The first thing that I take into account is that you are currently in employment. The second thing is that the probation officer has expressed a concern, and this has been repeated by Mr Savage, that if you are sent to prison you are going to be associating with the very people who have obviously led you into difficulty before. To my mind that situation is entirely undesirable and if there is another option I should take it. The third factor is that the probation officer's report indicates to me that you now see the stupidity of your offending. As I understand it, you were trying to obtain money so that you could fight a custody battle. It doesn't take me to tell you that you went about it in

entirely the wrong way and you may well have prejudiced what you were trying to achieve. I accept that you are now genuinely remorseful. Finally, to the extent that there might have been offending from your home (and the information about that is relatively scant) that does not necessarily rule out home detention.

[12] In the end, Mr Cook, it is a finely balanced matter. I have decided that I will grant home detention and I hope that you will reciprocate by making sure that this fall from grace through this ridiculous offending is the last time that you are before the Court. So in relation to the sale of cannabis you are sentenced to home detention for 12 months and there will be a concurrent sentence in relation to the possession of cannabis for supply.

[13] The following conditions will apply to your home detention:

- (a) You are to travel directly to 348 Kaikorai Valley Road, Dunedin and await the arrival of your supervising probation officer.
- (b) You are to reside at that address for the duration of your home detention, subject to attendance at your place of employment.
- (c) You are to abstain from the consumption of alcohol and/or illicit drugs for the duration of the home detention.
- (d) You are to attend any treatment programme that might be deemed appropriate by the probation officer.
- (e) You are to live and work where directed by the probation officer.

[14] Mr Wihongi, you are younger than Mr Cook, 26 years of age. You have three children, all under three. Compared with Mr Cook your previous record is shorter but, having said that, I note that you do have 21 previous convictions. Lists like that do not help anyone when they are appearing for sentence. The only conviction that is of direct relevance is your conviction for possession of utensils in 2002.

[15] The probation officer reports that you have successfully completed community sentences in the past. There are also indications, as indicated by Mr Westgate, that since your arrest you have abstained from cannabis, which seems to have been part of your life in the past. You are now attending Narcotics Anonymous, and you must continue to do so. According to the probation officer the risk of re-offending is low. Your employer has provided a detailed letter which I take into account.

[16] Mr Wihongi, I start at the same point as I started with Mr Cook, two years and nine months. Although you have a previous conviction relating to drugs, I do not see any reason to increase the starting point above two years and nine months.

[17] Like Mr Cook, you were frank with the police. Indeed, as Mr Westgate said, you were extraordinarily frank. You are entitled to a full discount for those mitigating factors of one third which brings down the sentence to 22 months imprisonment. That, of course, is within the home detention range. Whereas I had a struggle to decide whether Mr Cook should be admitted to home detention, your situation is much more clear-cut. You have good prospects of rehabilitation. You are in employment and the adverse factors that applied in the case of Mr Cook generally speaking do not apply in your case. So I am going to grant home detention. You are sentenced to concurrent sentences of 10 months home detention.

[18] Mr Wihongi, the conditions are these:

- (a) You are to travel directly from the court to 23 Barr Street, Dunedin and await the arrival of your probation officer.
- (b) You are to reside at that address in accordance with the conditions of home detention.
- (c) You are not to be in possession of or consume alcohol or illicit drugs at any time while on home detention.

- (d) You are to attend a pre-programme interview and if found suitable, to attend and complete a Departmental Rehabilitation Programme to the satisfaction of the programme facilitator.
- (e) You are also to attend any treatment and/or counselling for substance use as directed by the probation officer.
- (f) And, although the probation officer's report has not recommended it, I am going to add a condition that you live and work where directed by the probation officer.

So you have also had what you might regard as a lucky break, Mr Wihongi. Make the most of it. If you are not thinking about yourself, think about your children.

[19] The standard post-release conditions will apply for 12 months in relation to both Mr Cook and Mr Wihongi.

[20] Mr Wihongi's intensive supervision order is cancelled.

[21] There is an order for destruction of all utensils and any cannabis that was recovered.

[22] There will be an order for forfeiture of the \$340 located in Mr Cook's vehicle.

Solicitors: Crown Solicitor, Dunedin  
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