

IN THE SOLOMON ISLANDS COURT OF APPEAL

NATURE OF JURISDICTION:	Appeal from Judgment of the High Court of Solomon Islands (Talasasa J)
COURT FILE NUMBER:	Criminal Appeal Case No.3 of 2024 (On Appeal from High Court Criminal Case No. 153 of 2023)
DATE OF HEARING:	14 October 2025
DATE OF JUDGMENT:	31 October 2025
THE COURT:	Muria P Gavara-Nanu JA Morrison JA
PARTIES:	PHILIP BASIKEKERO -V - REX
ADVOCATES:	
APPELLANT:	B. Ifuto'o
RESPONDENT:	P. T. Waisanau
EX TEMPORE/RESERVED	RESERVED
ALLOWED/DISMISSED	ALLOWED
PAGES	1 - 9

JUDGMENT OF THE COURT

1. The Appellant appeals his sentence of 15 years imprisonment imposed by the primary judge on 21st December 2023 after he pleaded guilty to the charge of manslaughter under s. 199 of the *Penal Code (Cap. 26)*. The victim of his crime was his own wife. The prescribed maximum penalty for manslaughter is life imprisonment.
2. The Appellant was initially charged with murder under s. 200 of the *Penal Code*. On arraignment, he pleaded not guilty. The Crown as a result nollied the charge of murder and charged him with manslaughter to which he pleaded guilty.
3. The Appellant and the deceased are from Malaita Province but come from different villages. At the time of the offending the deceased was 48 years old, and the Appellant was 57 years old.

Background facts

4. The brief background facts are these. On Sunday 25th December 2022, the deceased named Gladys and two others joined the appellant and started consuming alcohol at the Appellant's place early in the morning till late in the afternoon. The Appellant apparently started consuming alcohol the previous night starting about midnight. Later in the afternoon on Sunday the deceased went to sleep; the Appellant woke her up and told her to cook some food for their small daughter. However, the deceased left their place without cooking food for their daughter and joined some people who were playing a game of cards next to their place. Sometime later, the Appellant sent his small niece to go and tell the deceased to go to their house and cook food for their small daughter. The deceased continued playing cards, so the Appellant went and started assaulting the deceased. He punched her on her right eye which caused her to fall on top of a pile of timbers. He continued to assault her while lying on top of the timbers. The Appellant stopped assaulting the deceased only when a son of theirs went and pulled her away from where she was lying and took her to their house. On 27th December 2022, the deceased complained of headache. She was taken to the hospital and after being given some medicine she was sent home. She was told to return to the hospital the next day on 28th December 2022 for review. However, she did not return to the hospital for review on 28th December 2022 although she continued to have headache. On 31st December 2022, her headache got worse and developed fever and started vomiting,

she was rushed to the hospital and was admitted. The CT scan performed on her showed she developed meningitis. She was treated with antibiotics; she passed away on 2nd January 2023. An autopsy was performed on her on 4th January 2023, the autopsy report showed she sustained brain injury due to force applied to her head with a blunt object. The Appellant was arrested on 4th February 2023. The relatives of the Appellant paid \$24,000.00 SBD and three shell money in compensation to the deceased's relatives.

Sentence

5. In passing sentence, the learned primary judge took the following aggravating factors into account. First, the deceased was unarmed, being a woman, she was weak, defenceless and vulnerable. Second, she did not fight back. Third, the Appellant persisted in assaulting the deceased even after she fell down lying on top of a pile of timbers. Fourth this was a domestic violence on the deceased by her husband. The assault was unprovoked. The following mitigating factors were taken into account. First, the Appellant was a first-time offender. Second, he pleaded guilty, thus saving time and expenses for the Crown from having to call evidence and prove the case. Third, the crime was not pre-meditated, and the Appellant acted in a spur of a moment. Fourth, no weapons were used. Fifth, the Appellant co-operated with the police. Sixth, the Appellant was remorseful. Seventh, compensation was paid to the relatives of the deceased by the Appellant's relatives. Eighth, the Appellant had a medical condition.
6. In sentencing the Appellant, the learned primary judge adopted 7 years as the starting point. This term was increased by 13 years for the aggravating factors, thus taking the total sentence to 20 years. The learned judge then deducted 5 years for the mitigating factors, thus resulting in the Appellant's effective term of sentence at 15 years imprisonment.
7. The following passage from the learned primary judge's judgment on sentence indicates how his Lordship decided the Appellant's sentence. His Lordship said: -

"I do note that Defence also submitted on the health conditions of the prisoner. Also, that compensation was paid to relatives of the deceased. I take note of that. These have significant effect on the final sentence I will impose on you.

The incident occurred on Christmas Day, in the evening. I do note whilst Christmas is usually celebrated in Christian communities with church services, feasting and sports, it is more reflected as a Christian festivity of remembrance;

remembering the incarnation of God in man through the Lord Jesus Christ, that is fully human and fully divine.

Whilst many Christians in Honiara and I believe the same at Fulisango settlement were observing the day, you spent the day drinking; little did you realize that what you might have intended to be a joyous occasion resulted in a fatality within your own family.

You assaulted your wife mercilessly. It took the love and bravery of your son to remove the deceased from your ongoing barrage of assaults. I consider a husband who beat his wife or partner to be a 'coward.' You have cowardly attacked your wife.

I note that you were showing fatherly love to your daughter by asking your wife to prepare food for her. But what you did to your wife when she did not follow your instructions would end your family the biggest losers following your acts of aggression and violence. One wrong does not make good another wrong. You deprived your daughter and the rest of your children, a mother. How sad that was, but in my view, is an illustration of greed and jealousy on your part — pure barbarism and primitive an attitude.

Manslaughter is a serious offence. Even though it is in the absence of the element of malice aforethought, it does involve the doing of an unlawful act that caused the loss of one's life. It carries a maximum penalty of life imprisonment. And so, you will be punished accordingly.

*The offence was committed in a domestic setting. Time and again, the court in this jurisdiction had to do the difficult task of sentencing such offenders. The same messages have been pronounced from the bowels of our courts. The Court of Appeal in *Popoe v Regina*; was no exception when it states.*

"We agree with his Lordship that domestic violence is a serious issue for the Community in the Solomon Islands".

It is time penalties for manslaughter are raised to reflect the rationale of parliament in providing for life imprisonment as its maximum penalty. It is the most heinous of crime. second only to murder. A life lost in such circumstances in the communities of Solomon Islands is devastating to the family and the community. It is a destruction of peace in the family and the community.

*It is my view that the sentencing court in the country must also reflect that when sentencing such offenders. Of course, a sentencing court is to be mindful of what the Court of Appeal said in *Popoe v Regina* [2015] SBCA20; SICOA-CRAC 42 OF 2014 at paragraph 79 (9 October 2015): -*

"However, it is our respectful view that the Court must approach the sentence of the Appellant based on the particular circumstances of his offending." (Emphasis mine)

Prosecuting Counsel asked court to consider a starting point of 7 years. On the other hand, Defence Counsel submitted a range of 2 1/2 years to 4 years imprisonment as starting point.

Taking into account the circumstances of this case, I find the starting point of 7 years as appropriate. With circumstances of aggravation, I consider an uplift of 13 years, making it to a total of 20 years.

In considering the guilty plea entered and for what it serves as outlined in Counsel

Ifutoö's submissions on this point, in my view is worth a significant discount by 3 years. For the circumstances or features of mitigation, a further 2 years is deducted, making it 5 years as an appropriate discount in total, making the end sentence of 15 years imprisonment.

Both Counsels submitted that the prisoner has been in custody since 6 January 2023. That was also stated in the CSSI medical report of the prisoner.

I order that time spent in custody is to be taken into account and deducted from the final sentence. I will ask that Inspector Medical of the Correctional Services of Solomon Islands (CSSI) monitor the prisoner and ensure he is well taken care of whilst serving his term. It was noted in the report that proactive actions were in place to ensure appropriate support is available to the inmate, and that ongoing consultation with the inmate is done at the accommodation blocks and as well as at the Rove Central Correctional Centre Clinic (RCCC Clinic).

Grounds of Appeal

- 8 In the first ground, the Appellant claims the sentence of 15 years imprisonment is manifestly excessive. In the second ground, the Appellant claims the learned primary judge erred in setting 13 years uplift for the aggravating factors from the 7 years starting point.
9. The Appellant asks the Court to quash the sentence imposed by the primary judge and substitute it with a lesser term.

Submissions

- (i) By the Appellant

10. Mr Ifuto'o for the Appellant submitted among others that the Appellant did not contest the 7 years starting point. What is contested is the uplift of 13 years for the aggravating factors thus increasing the total sentence to 20 years. Then deducting 5 years for the mitigating factors, thus leaving the total effective sentence at 15 years imprisonment. It was submitted that the uplift for the aggravating factors should have been about 1 year from the starting point, thus making the total sentence to 9 years, then deduct 5 years for the guilty plea and other mitigating factors, including the Appellant's medical condition. Thus leaving the Appellant to the effective sentence of 4 years imprisonment. It was submitted that 4 years starting point is a fair punishment for the Appellant given his medical condition and the large amount of compensation paid by the Appellant's relatives. Mr Ifutoó also referred to a number of cases in support but the case that has some relevance on this case is *Tapa ámae v. R* [2021] SBCA 12; SICOA-CRAC 3 of 2020 (1 Februar 2021). In that case, the Appellant pleaded guilty to manslaughter. The Appellant and the deceased who was his cousin brother were both drunk. The Appellant accidentally pushed the deceased off a wharf into the sea after an altercation. The Appellant did not help the deceased when he fell into the sea and the deceased drowned. The Appellant was given effective sentence of 6 years by the primary court. The sentence was affirmed on appeal.

(ii) By the Respondent

11. Ms Waisanau for the Respondent told the Court that the Respondent agreed that the effective sentence of 15 years imposed on the Appellant was excessive. But argued that the sentence should be between 8 to 12 years. She emphasized that the assault on the deceased by the Appellant was sustained and the deceased was unarmed. She was vulnerable as a woman and the offending was another example of violence against women and the offending happened in a domestic setting, thus offending is serious. Therefore, the substituted sentence imposed by this Court must reflect the seriousness of the offending. Counsel submitted that this was another case of domestic violence on the wife by the husband, and it calls for a strong deterrent sentence. The learned counsel stressed that the assault on the deceased was unprovoked and the assault was sustained. She urged the Court to order sentence that will reflect the seriousness of the offending.

Consideration

12. The Respondent does not dispute that sentence of 15 years is excessive but disagrees with the Appellant that the effective sentence should be 4 years imprisonment. The result is that the appeal is allowed but the Court has to decide the appropriate sentence for the Appellant.
13. It is an established principle of sentencing that this Court will not interfere with the sentence unless the primary court erred in exercising its sentencing discretion. In performing this task, this Court must determine whether the sentence is manifestly excessive and whether the sentencing judge has acted on a wrong principle or has overlooked or understated or overstated or misunderstood some salient features of the case. See, *House v. The King* (1936) 55 CLR 499; *Saukoroa v. R* [1983] SILR 275 and *Berekame v. DPP* [1985-1986] SILR 272.
14. There is no dispute that the primary judge erred in the exercise of his sentencing discretion, as conceded by the Respondent. Thus, the task for this Court is to determine what is a fair and reasonable sentence for the Appellant. In performing this task, we are grateful to Counsel for their helpful submissions both in writing and oral on the types of sentences for the crime of manslaughter in this jurisdiction. A quick look at the range of sentences given for this type of crime in this jurisdiction for both pleas of guilty and guilty after trial are around 10 years and below. Of course, a sentence in a case should be decided on its own merits.
15. In this case, except for the excessive sentence the learned primary judge imposed as shown by the 13 year uplift from the starting point of 7 years, we find that his Lordship correctly had regard to the aggravating factors of the offending. We particularly note that the deceased was totally innocent and the attack on her by the Appellant was unprovoked and therefore had no justification at all. The deceased being a woman was weak and vulnerable she could not defend herself. Whilst it is true that the Appellant did not use any weapon in attacking the deceased, it is clear from the sustained manner in which she was attacked, the attack was done with anger and domestic rage. In this regard, we note that the Appellant went purposely from his house to where the deceased was which was some distance away from their house to assault her. That attack was straight after the deceased did not heed his order to go to their house and cook food for their small daughter. The Appellant's anger and rage were shown clearly by the fact that he punched the deceased on her head around her right eye and when she fell on top of a pile of timbers, he continued to assault her, he

stopped only when their son intervened and took the deceased away from any further assault by the Appellant. The attack was on the vulnerable part of her body which was a direct cause of the damage she suffered in her brain which resulted in her death. It has been argued for the Appellant that his guilty plea should be rewarded with a 5-year reduction in his sentence. We do not see any basis for such substantive reduction in the sentence for the guilty plea, because the evidence against him was overwhelming. There were people who saw the Appellant attack the deceased. So even if he had not pleaded guilty, he would have still been found guilty. We note that when the Appellant punched the deceased, she fell on a pile of timbers, but after she fell, the Appellant continued to assault her until their son pulled her away from the Appellant. It is clear that her injuries were caused directly by the Appellant's sustained assault on her including the punch on her head which caused her to fall on a pile of timbers. The appellant must therefore bear full responsibility for her death. The final result was that the life of an innocent young mother was cut short by her own husband. The death of the deceased resulted from a domestic violence by her husband, this type of crime is very prevalent in this country. The courts must therefore do their part in curbing killings resulting from domestic violence with equally strong punishments on offenders.

16. Most of the cases cited by Counsel are many years old now, thus we are of the view that there ought to be an increase in the sentencing range for this type of crimes, after all, it is one of the most serious crimes under the *Penal Code* which carries the maximum penalty of life imprisonment. The sentence imposed by this Court must sufficiently reflect the seriousness of the crime and must have a strong element of deterrence. In expressing this view, we are mindful that there should not be a quantum leap in the sentence we order. But there must also be a balance in the sentence which should also be one that will establish and maintain appropriate standard of punishment for this type of crime. Thus, in the circumstances of this case, we consider that the starting point of 8 years is appropriate. Given the serious aggravating features, we uplift the sentence by 6 years. The uplift not only reflects the seriousness of the crime, but it also meets the prevalence of the crime. For the mitigating features, including the medical condition of the Appellant, we will reduce the sentence by 2 years. For the medical condition of the Appellant, the Correctional Officers have been appropriately ordered by the primary judge to give the Appellant full and sufficient medical care. In our view, this will ensure full and proper medical care for the Appellant while in prison. Regarding the substantial amount paid in compensation by

the relatives of the Appellant to the relatives of the deceased, we are of the view that it should not impact the punishment for the Appellant in a significant way. The reason is, compensation was paid by the Appellant's relatives to the deceased's relatives. The compensation did not benefit the deceased. The only effect the compensation will have is, it will hopefully bring peace and harmony between the two families. If the deceased was alive and compensation was ordered as part of the punishment for the Appellant, that would have definitely benefited the victim (deceased) directly. But that is not the case here, and the compensation appears to have been paid at the initiative of the Appellant's relatives. For these reasons, the 2-year deduction we made is sufficient even for the compensation and the guilty plea. The Appellant will serve 12 years imprisonment.

17. We make the following orders: -

1. The Appeal is allowed.
2. The sentence by imposed by the lower court is set aside'
3. The Appellant will serve the effective sentence of 12 years, which will run from the date the Appellant's was sentenced by the primary court.

18. Orders accordingly.

.....
Muria P

.....
Gavara-Nanu JA

.....
Morrison JA

